



***Grey Sauble Conservation Authority
R.R. #4, 237897 Inglis Falls Road
Owen Sound, Ontario N4K 5N6 (519) 376-3076; ext. 234
v.coleman@greysauble.on.ca***

The next regular meeting of the Grey Sauble Conservation Authority Board of Directors is scheduled for Wednesday, November 17th, 2020, at 1:30 p.m. The regular meeting will occur via the Webex web-based application. Please notify Valerie Coleman if you are unable to attend.

Directors

Burley, Dwight
Carleton, Sue
Greig, Ryan
Greig, Scott
Little, Cathy
Koepke, Marion

Mackey, Scott
McKenzie, Paul
Matrosov, Andrea
Greenfield, Harley
Vickers, Paul

Honourary Members

Elwood Moore
Betty Adair

Ling Mark, MECP
Katona, Keley, MECP
Lara Oosting, MNRF, Peterborough
Tracy Allison, MNRF, Owen Sound
Bill Walker, M.P.P., Bruce Grey Owen Sound
Alex Ruff, M.P., Bruce Grey Owen Sound
Terry Dowdall, M.P., Simcoe-Grey
Jim Wilson, M.P.P., Simcoe-Grey



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https://www.youtube.com/channel/UCy_ie5dXG8aFYDYGe8tV9Yq/videos.

Please note that this is a Notice of Meeting only for your information.

**The Sun Times
Bayshore Broadcasting
The Meaford Independent
The Dock
The Wiarton Echo
The Advance
The Post
The Thornbury Paper
The Hub Owen Sound
Blue Mountains Review
South Grey News
Collingwood Today**



SPECIAL MEETING AGENDA
Grey Sauble conservation Authority
Meeting
Tuesday, November 17th, 2020
1:30 p.m.

1. Call to order
2. Disclosure of Pecuniary Interest
3. Business Items:
 - i. Administration:
 - a) Update on the Changes to the Conservation Authorities Act – Resolution – **Attachment #1**
 - ii. Environmental Planning:
 - a) Exemption from a Policy Condition for issuance of a permit – Resolution – **Attachment #2**
4. Adjournment



Grey Sauble Authority Board of Directors

MOTION

DATE: November 17, 2020

MOTION #: FA-20-081

MOVED BY: _____

SECONDED BY: _____

THAT the Grey Sauble Conservation Authority Board of Directors approve the agenda of November 17, 2020.

STAFF REPORT

Report To: Board of Directors
Report From: Tim Lanthier, CAO
Meeting Date: November 17, 2020
Report Code: 32-2020
Subject: Recent Changes to Conservation Authorities Act through Omnibus Bill (Bill 229)



Recommendation:

WHEREAS in 2019, the Ontario Government amended the Conservation Authorities Act through the Focusing CA Permits on Protection of People and Property, and the Modernizing CA Operations initiatives, AND,

WHEREAS, Ontario's 36 Conservation Authorities and Conservation Ontario have been attempting to effectively communicate and consult with the Province on these changes and the pending regulations, AND,

WHEREAS on November 5th, 2020, the Province introduced new and unexpected amendments to the Act, AND,

WHEREAS the Board of Directors passed a motion for the establishment of a working group consisting of the Chair and Vice-Chair of the Board, as well as GSCA Staff to articulate the value of conservation authority work, garner support for GSCA's position, and encourage these organizations to convey their support to the Province, AND,

THAT the Board of Directors support the ongoing efforts of this Working Group, including garnering partner and stakeholder support, sending correspondence to Mayors and Councils, sending correspondence to local MPPs, to Minister Yurek, Minister Yakabuski, and Premier Ford, AND,

THAT the Board of Directors seek to have the attached Municipal Resolution approved by their respective Councils, AND,

THAT GSCA Staff be directed to support Conservation Ontario's communication Advocacy Strategy through various platforms, including social media, GSCA website, and media releases.

Strategic Initiatives

These changes to the CAA will affect all five of GSCA's Strategic Goals and the larger operations, management and governance of the GSCA.

Current Request

As per Appendix Documents.

Analysis:

As per Appendix Documents.

Financial/Budget Implications:

Unknown at this time. Expected to have implications for both financial and staffing resources.

Communication Strategy:

As per motion

Consultation:

A short web conference was provided by MECP on November 9, 2020 and was followed by a debriefing session between GM/CAO's from all 36 Conservation Authorities and Conservation Ontario.

Materials and consultation provided by/with Conservation Ontario.

CAO consulted with GSCA Chair and Vice-Chair

Appendices:

1. Summary of CAA Changes
2. Summary of Implications
3. GSCA's summary of Concerns
4. Draft Municipal Resolution
5. Public Backgrounder Document
6. Section 6 of Bill 229

Date of Update of this Report: November 13, 2020

Summary Provided by Province

Bill 229 – An Act to implement Budget measures and to enact, amend and repeal various statutes

Schedule 6 – Conservation Authorities Act

The Schedule amends the Conservation Authorities Act. The more significant amendments are described below.

Section 14 of the Act is amended to ensure that the members of a conservation authority that are appointed by participating municipalities are municipal councillors. The Minister is given the authority to appoint an additional member to a conservation authority to represent the agricultural sector.

The objects of a conservation authority described in section 20 of the Act are limited to the provision of programs and services required or permitted under sections 21.1, 21.1.1 and 21.1.2. Section 21.1 requires an authority to provide mandatory programs and services that are prescribed by regulation and meet the requirements set out in that section. Section 21.1.1 allows authorities to enter into agreements with participating municipalities to provide programs and services on behalf of the municipalities, subject to the regulations. Section 21.1.2 would allow authorities to provide such other programs and services as it determines are advisable to further the purposes of the Act, subject to the regulations. An authority is required to enter into agreements with the participating municipalities in its jurisdiction if any municipal funding is needed to recover costs for the programs or services provided under section 21.1.2. A transition plan shall be developed by an authority to prepare for entering into agreements relating to the recovery of costs. All programs and services must be provided in accordance with any prescribed standards and requirements.

Section 21.2 of the Act allows a person who is charged a fee for a program or services provided by an authority to apply to the authority to reconsider the fee. Section 21.2 is amended to require the authority make a decision upon reconsideration of a fee within 30 days. Further, the amendments allow a person to appeal the decision to the Local Planning Appeal Tribunal or to bring the matter directly to the Tribunal if the authority fails to render a decision within 30 days.

New sections 23.2 and 23.3 of the Act would allow the Minister to take certain actions after reviewing a report on an investigation into an authority's operations. The Minister may order the authority to do anything to prevent or remedy non-compliance with the Act. The Minister may also recommend that the Lieutenant Governor in Council appoint an administrator to take over the control and operations of the authority.

Subsection 28.1 (8) of the Act currently allows a person who applied to a conservation authority for a permit under subsection 28.1 (1) to appeal that decision to the Minister if the authority has refused the permit or issued it subject to conditions. Subsection 28.1

(8) is repealed and replaced with provisions that allow the applicant to choose to seek a review of the authority's decision by the Minister or, if the Minister does not conduct such a review, to appeal the decision to the Local Planning Appeal Tribunal within 90 days after the decision is made. Furthermore, if the authority fails to make a decision with respect to an application within 120 days after the application is submitted, the applicant may appeal the application directly to the Tribunal.

New section 28.1.1 of the Act allows the Minister to order a conservation authority not to issue a permit to engage in an activity that, without the permit, would be prohibited under section 28 of the Act. After making such an order the Minister may issue the permit instead of the conservation authority.

Section 28.3 of the Act is amended to allow a decision of a conservation authority to cancel a permit or to make another decision under subsection 28.3 (5) to be appealed by the permit holder to the Local Planning Appeal Tribunal. Subsection 30.2 of the Act sets out circumstances in which an officer may enter land within the area of jurisdictions of an authority. Those circumstances are revised by section 19 of the Schedule.

Section 30.4 of the Act is repealed. That section, which has not yet been proclaimed and which would have given officers the power to issue stop orders to persons carrying on activities that could contravene or are contravening the Act, is repealed.

The regulation making authority in section 40 is re-enacted to reflect amendments in the Schedule.

**Summary of Proposed Amendments to the *Conservation Authorities Act*
& *Planning Act* through Bill 229 and Implications**

Description of Proposed Amendments	Implications to Conservation Authorities
<p>Existing aboriginal or treaty rights</p> <p>Section 1 is amended to include a non-abrogation clause with respect to aboriginal and treaty rights.</p>	<p>No concern.</p>
<p>Members of authority</p> <p>Section 14 is amended to ensure that the members of a conservation authority that are appointed by participating municipalities are municipal councillors. The Minister is given the authority to appoint an additional member to a conservation authority to represent the agricultural sector. The powers to define in regulation the composition, appointment or minimum qualifications for a member of the Board have been repealed. The duties of a member are amended, every member is to act honestly and in good faith and shall generally act on behalf of their respective municipalities.</p>	<p>There may be a municipal concern. Municipalities will no longer be able to appoint a member of the public to the Board and the specification of ‘municipal councillor’ rather than “municipally elected official” may exclude Mayors.</p> <p>There may be a municipal concern. Should the Minister choose to appoint a member to represent the agricultural sector it is assumed that candidates would apply through the Public Appointments Secretariat. It is also assumed that these appointments would have the same voting privileges as all members and would be entitled to receive per diems and to be appointed as the chair or vice-chair.</p> <p>There may be a municipal concern. There is no opportunity to manage these legislative amendments through the regulations process as Bill 229 has removed the ability to prescribe by regulation, the composition, appointment, or qualifications of members of CAs.</p> <p>Significant concern. The amendment that would require members to act on behalf of their respective municipalities contradicts the fiduciary duty of a Board Member to represent the best interests of the corporation they are overseeing. It puts an individual municipal interest above the broader watershed interests further to the purpose of the Act.</p>

Description of Proposed Amendments	Implications to Conservation Authorities
<p>Meetings of authorities</p> <p>Section 15 is amended to require that meeting agendas be available to the public before a meeting takes place and that minutes of meetings be available to the public within 30 days after a meeting. They are to be made available to the public online.</p>	<p>No concern. CA Administrative By-Laws were completed by the December 2018 legislated deadline and, as a best practice, should already address making key documents publicly available; including meeting agendas and meeting minutes.</p>
<p>Chair/vice-chair</p> <p>Section 17 is amended to clarify that the term of appointment for a chair or vice-chair is one year and they cannot serve for more than two consecutive terms.</p>	<p>There may be a municipal concern. Municipal Councillor interest and availability regarding this requirement is to be determined.</p>
<p>Objects</p> <p>Section 20 objects of a conservation authority are to provide the mandatory, municipal or other programs and services required or permitted under the Act and regulations.</p>	<p>No concern. Previously the objects of an authority were to undertake programs and services designed to further the conservation, restoration, development and management of natural resources. This is still reflected in the Purpose of the Act. The objects now reference the mandatory and non-mandatory programs and services to be delivered. The “other programs and services” clause indicates that “an authority may provide within its area of jurisdiction such other programs and services as the authority determines are advisable to further the purposes of this Act”.</p>
<p>Powers of authorities</p> <p>Section 21 amendments to the powers of an Authority including altering the power to enter onto land without the permission of the owner and removing the power to expropriate land.</p>	<p>No concern</p>
<p>Programs and Services</p> <p>Section 21.1 requires an authority to provide mandatory programs and services that are prescribed by regulation and meet the requirements set out in that section. Section 21.1.1 allows authorities to enter into agreements with participating municipalities to provide programs and</p>	<p>Significant concern. The basic framework of mandatory, municipal and other program and services has not changed from the previously adopted but not yet proclaimed amendments to the legislation. What has now changed is that municipal programs and services and other programs and services are subject to such standards and requirements</p>

Description of Proposed Amendments	Implications to Conservation Authorities
<p>services on behalf of the municipalities, subject to the regulations. Section 21.1.2 would allow authorities to provide such other programs and services as it determines are advisable to further the purposes of the Act, subject to the regulations.</p>	<p>as may be prescribed by regulation. Potentially the regulations could restrict what the Authority is able to do for its member municipalities or to further the purpose of the Act.</p>
<p>Agreements for ‘other programs and services’</p> <p>An authority is required to enter into agreements with the participating municipalities in its jurisdiction if any municipal funding is needed to recover costs for the programs or services provided under section 21.1.2 (i.e. other program and services). A transition plan shall be developed by an authority to prepare for entering into agreements relating to the recovery of costs. *All programs and services must be provided in accordance with any prescribed standards and requirements.* <i>NOTE- this new addition is addressed as a significant concern under Programs and Services above.</i></p>	<p>Potential concern. This appears to be a continuation of an amendment previously adopted but not yet proclaimed. MECP staff indicate that the current expectation is that the plan in the roll-out of consultations on regulations is that the Mandatory programs and services regulation is to be posted in the next few weeks. It is noted that this will set the framework for what is then non-mandatory and requiring agreements and transition periods. MECP staff further indicated “changes would be implemented in the CA 2022 budgets” which is interpreted to mean that the Transition period is proposed to end December 2021. Subject to the availability of the prescribed regulations this date is anticipated to be challenging for coordination with CA and municipal budget processes.</p>
<p>Fees for programs and services</p> <p>Section 21.2 of the Act allows a person who is charged a fee for a program or service provided by an authority to apply to the authority to reconsider the fee. Section 21.2 is amended to require the authority to make a decision upon reconsideration of a fee within 30 days. Further, the amendments allow a person to appeal the decision to the Local Planning Appeal Tribunal or to bring the matter directly to the Tribunal if the authority fails to render a decision within 30 days.</p>	<p>Some concern. Multiple appeals of fees have the potential to undermine CA Board direction with regard to cost recovery and to divert both financial and staff resources away from the primary work of the conservation authority.</p>
<p>Provincial oversight</p> <p>New sections 23.2 and 23.3 of the Act would allow the Minister to take certain actions after reviewing a report on an investigation into an authority’s operations. The Minister may order the authority to do anything to prevent or remedy non-compliance with the Act. The</p>	<p>No concern. This appears to be an expansion of powers previously provided to the Minister.</p>

Description of Proposed Amendments	Implications to Conservation Authorities
<p>Minister may also recommend that the Lieutenant Governor in Council appoint an administrator to take over the control and operations of the authority.</p>	
<p>Ministerial Review of Permit Decisions</p> <p>Subsection 28.1 (8) of the Act currently allows a person who applied to a conservation authority for a permit under subsection 28.1 (1) to appeal that decision to the Minister if the authority has refused the permit or issued it subject to conditions. Subsection 28.1 (8) is repealed and replaced with provisions that allow the applicant to choose to seek a review of the authority's decision by the Minister or, if the Minister does not conduct such a review, to appeal the decision to the Local Planning Appeal Tribunal within 90 days after the decision is made. Furthermore, if the authority fails to make a decision with respect to an application within 120 days after the application is submitted, the applicant may appeal the application directly to the Tribunal.</p>	<p>Significant concern. These amendments provide two pathways for an applicant to appeal a decision of an Authority to deny a permit or the conditions on a permit. One is to ask the Minister to review the decision; the other is to appeal directly to the Local Planning Appeal Tribunal. Appeals brought through these processes will create additional workload for the Authority and increase the amount of time that a permit appeal process takes.</p> <p>New guidelines will need to be created to support the Minister and the LPAT in their decision-making processes. There is no reference to a complete application being submitted prior to the 120 day "clock" being started.</p>
<p>Minister's Order Re. S. 28 Permit</p> <p>New section 28.1.1 of the Act allows the Minister to order a conservation authority not to issue a permit to engage in an activity that, without the permit, would be prohibited under section 28 of the Act. After making such an order the Minister may issue the permit instead of the conservation authority.</p>	<p>Significant concern. These powers appear to be similar to a Minister Zoning Order provided for under the <i>Planning Act</i>. Should the Minister decide to use these powers it appears that the CA may be required to ensure compliance with the Minister's permit.</p>
<p>Cancellation of Permits</p> <p>Section 28.3 of the Act is amended to allow a decision of a conservation authority to cancel a permit or to make another decision under subsection 28.3 (5) to be appealed by the permit holder to the Local Planning Appeal Tribunal.</p>	<p>Some concern. Some conservation authorities use the cancellation of a permit as part of their compliance approach; the ability to appeal to the LPAT will add 90 days to the process prior to a LPAT hearing taking place. Renders the tool ineffective if the permit holder decides to appeal.</p>

Description of Proposed Amendments	Implications to Conservation Authorities
<p>Entry Without Warrant, Permit Application</p> <p>Subsection 30.2 (permit application) of the Act sets out circumstances in which an officer may enter land within the area of jurisdictions of an authority. Those circumstances are revised.</p>	<p>Some concern. The changes are to amendments previously adopted but not proclaimed. For considering a permit application, the officer is now required to give reasonable notice to the owner and to the occupier of the property, which may result in increased administrative burden for the CA. It also appears to remove the ability to bring experts onto the site.</p>
<p>Entry Without Warrant, Compliance</p> <p>Subsection 30.2 (compliance) of the Act sets out circumstances in which an officer may enter land within the area of jurisdictions of an authority. Those circumstances are revised.</p>	<p>Significant/Some concern. The revisions essentially undo any enhanced powers of entry found within the yet to be proclaimed enforcement and offences section of the Act. The result is that CAs essentially maintain their existing powers of entry, which are quite limited. Conservation authorities will likely have to rely on search warrants to gain entry to a property where compliance is a concern. Reasonable grounds for obtaining a search warrant cannot be obtained where the activity cannot be viewed without entry onto the property (i.e. from the road).</p>
<p>Stop (work) Order</p> <p>Section 30.4 of the Act is repealed. That section, which has not yet been proclaimed and which would have given officers the power to issue stop orders to persons carrying on activities that could contravene or are contravening the Act, is repealed.</p>	<p>Significant concern. This is an important enforcement tool that conservation authorities have been requesting for years. Without this tool, conservation authorities must obtain an injunction to stop unauthorized activities which represents a significant cost to the taxpayers.</p>
<p>Regulations Made By Minister and LGIC</p> <p>The regulation making authority in section 40 is re-enacted to reflect amendments in the Schedule.</p>	<p>No concern.</p>
<p>Throughout the legislation all references to the Mining and Lands Commissioner has been replaced with the Local Planning Appeal Tribunal</p>	<p>Some concern. The LPAT lacks the specialized knowledge that the MLT has with regard to S. 28 applications. There is also a significant backlog of cases at the LPAT.</p>

Description of Proposed Amendments	Implications to Conservation Authorities
<p>Planning Act – Exclusion of CAs as Public Body</p> <p>Subsection 1(2) of the <i>Planning Act</i> is amended to remove Conservation Authorities as a public body under the legislation. Conservation authorities will not be able to independently appeal or become a party to an appeal as a public body at the LPAT.</p>	<p>Significant concern. There is lack of clarity on the implications of this amendment.</p> <p>The intent of the amendment is to remove from conservation authorities the ability to appeal to LPAT any <i>Planning Act</i> decisions as a public body or to become a party to an appeal. Conservation authorities will instead be required to operate through the provincial one window approach, with comments and appeals coordinated through MMAH. Note that the one window planning system is typically enacted for the review of Official Plans and Official Plan Amendments. It is expected that conservation authorities will retain the ability to appeal a decision that adversely affects land that it owns however that has not been confirmed.</p>

GSCA PRELIMINARY ISSUES REVIEW SYNOPSIS FOR BOARD MEMBERS
Major Concerns Related to Bill 229, Protect, Support and Recover from COVID-19
Act (Budget Measures), 2020

1. Governance

A number of amendments have been made regarding CA Board appointments. The most significant of which are:

- a. Requirement that municipalities only appoint municipal councilors (ie: no citizen appointees) –

Primary Concern: this does not currently affect GSCA, but it could. The primary concern here is associated with municipalities whose councilors are spread too thin and could benefit from a citizen appointee. This Board Member is still appointed by their respective municipality.

- b. That the Chair or Vice Chair shall hold office for a term of one-year and shall serve for no more than two consecutive terms.

Primary Concern: Although not necessarily a bad thing, it takes control away from the Board of Directors and adds the requirement for a new learning curve process every year or two.

- c. A wording change from:

- i. *“Every member of an authority shall act honestly and in good faith with a view to furthering the objects of the authority”,*

To:

- ii. *“Every member of an authority shall act honestly and in good faith and, in the case of the members appointed by participating municipalities, shall generally act on behalf of their respective municipalities*

Primary Concern:

This contradicts the fiduciary duty of board members of any organization to represent the best interests of the corporation they are overseeing, which in the case of conservation authorities, could compromise their ability to protect local ecosystems and keep people safe from natural hazards like flooding and erosion.

- d. A new section is added that allows the Minister to appoint a member from the agricultural sector. At this time, the Ministry has been unable to answer as to whether or not this member would be a voting member.

Primary Concern: There are two primary issues with this section:

- i. If the agricultural representative is a voting member, they do not represent any of the funding (ie: municipal members represent municipal funding).
- ii. No other sectors are represented.

2. Regulations Affecting Non-Mandatory Programs

The revised legislation includes clauses that enable the Minister to make regulations that would prescribe standards and requirements for Municipal Programs and Services (i.e. service agreement between Municipality and CA) and Other Programs and Services (i.e. those determined by the Board and which may or may not involve a municipality agreement depending on whether levy is used).

Primary Concerns:

What has now changed is that municipal programs and services and other programs and services are subject to such standards and requirements as may be prescribed by regulation. Potentially the regulations could restrict what the Authority is able to do for its member municipalities or to further the purpose of the Act. GSCA, and other CA's, are heavily dependent on self-generated revenues to offset programming costs. We are seriously concerned that the Province's disconnect and lack of understanding of CA business could dramatically impact our ability to realize these revenues. If this is the case, this will either dramatically impact the services that GSCA can provide and potentially the levy costs that these services offset.

3. Proposed amendments to the Section 28 Regulation:

There are major amendments proposed to the composition of the Section 28 Regulation. The majority of these amendments promote the Ministers inserting themselves into the Section 28 regulatory process – the limitations associated with these activities are to be enacted through future Ministerial and LGIC regulations. These include:

a. Appeals of Section 28 Hearing Board Decisions to the Minister and/or to the LPAT.

Under the new legislation, an applicant can appeal a permit with conditions or a permit denial directly to the Minister. The Minister is not required to hold a hearing prior to making a decision and the decision is final. This process lacks transparency.

The new legislation includes the ability for anyone to appeal a permit fee to LPAT.

Primary Concerns:

- i. Under the new legislation, an applicant could appeal directly to the Minister if they are denied a permit or if they are issued a permit with conditions. All GSCA permits have conditions (ie: applicant will complete the works as per the plans submitted). The Minister can then review and decide on the permit without holding a hearing. Adding the ability to appeal permit decisions to the minister not only lacks transparency but has the potential to add political motivation to decisions on appeals and removes the background information, local watershed knowledge & data, and the scientific expertise on which CA staff make these decisions.
- ii. Individuals can also appeal a Board Approved permit fee to LPAT. We receive about 400 permit applications per year. If 1% of those people appealed the fee, we would have 4 LPAT hearings to deal with. 2%, 8 hearing, etc.. This would cause a substantial burden on our already stretched staff.

b. Minister's Orders/ Minister's Powers

This change will allow the Minister to prohibit CA(s) from issuing a permit to a person and enable the Minister to issue their own permit instead. The subsequent legislation creates an expectation that the CA would monitor implementation of the Minister's Permit despite having no ability to provide input into the permitting process. It is unclear what parameters the Minister would use to decide whether or not to issue a permit and/or whether or not they have access to appropriate technical staff to make a decision.

Primary Concern: This foreshadows the use of Minister's permits the same way the current government is utilizing MZO's in the GTA area. There are significant environmental and flood/erosion hazard risks associated with this.

- c. **Enforcement Clauses-** some fettering of access to property has taken place as well as the removal of the ability of a CA to issue a stop order. There is no timeline associated with the enactment of the new enforcement clauses.

Primary Concern: CA's will continue to lack the basic enforcement tools afforded to other regulatory bodies, including provincial ministries, building officials and by-law officers. It also put an onus on CA's to prove, in court, that they entered onto property to stop significant flooding or loss of life. However, a charge is not dependent on these factors, only on violation of the regulation.

Consequential amendments to the Planning Act to remove CAs as public bodies.

At this point we are unclear as to whether this only affect the appeal process, or whether it also affects circulation requirements (regulations under the Planning Act). If CAs are only participating through the Provincial One Window then they will only be reviewing Official Plans and OPAs where the municipality hasn't been delegated

decision-making approval on their official plans. MMAH is the only ministry that could appeal to the LPAT. Many municipal OPs are out of date and do not contain relevant hazard information. This “consequential” amendment would allow these municipalities to approve Planning Act applications with no oversight as it relates to natural hazards. This is an extremely dangerous scenario as it relates to public safety.

Additionally, this process is going to create conflict if development is approved in a hazard area through the Planning Act, and then GSCA cannot issue a permit due to inconsistencies between the Planning Act and the Conservation Authorities Act.

Proposed Resolution for Municipalities

WHEREAS the Province has introduced Bill 229, Protect, Support and Recover from COVID 19 Act - Schedule 6 – Conservation Authorities Act

WHEREAS the Legislation introduces a number of changes and new sections that could remove and/or significantly hinder the conservation authorities' role in regulating development, permit appeal process and engaging in review and appeal of planning applications

WHEREAS we rely on the watershed expertise provided by local conservation authorities to protect residents, property and local natural resources on a watershed basis by regulating development and engaging in reviews of applications submitted under the *Planning Act*

WHEREAS the changes allow the Minister to make decisions without CA watershed data and expertise

WHEREAS the Legislation suggests that the Minister will have the ability to establish standards and requirements for non-mandatory programs which are negotiated between the conservation authorities and municipalities to meet local watershed needs

WHEREAS municipalities require a longer transition time to put in place agreements with conservation authorities for non-mandatory programs

WHEREAS municipalities believe that the appointment of municipal representatives on CA Boards should be a municipal decision; and the Chair and Vice Chair of the CA Board should be duly elected

WHEREAS the changes to the 'Duty of Members' contradicts the fiduciary duty of a CA board member to represent the best interests of the conservation authority and its responsibility to the watershed

WHEREAS conservation authorities have already been working with the Province, development sector and municipalities to streamline and speed up permitting and planning approvals through Conservation Ontario's Client Service and Streamlining Initiative

WHEREAS changes to the legislation will create more red tape and costs for the conservation authorities, and their municipal partners, and potentially result in delays in the development approval process

AND WHEREAS municipalities value and rely on the natural habitats and water resources within our jurisdiction for the health and well-being of residents; municipalities value the conservation authorities' work to prevent and manage the impacts of flooding and other natural hazards; and municipalities value the conservation authority's work to ensure safe drinking water

THEREFORE BE IT RESOLVED

- THAT the Province of Ontario work with conservation authorities to address their concerns by repealing and/or amending changes to the *Conservation Authorities Act* and the *Planning Act*
- THAT the Province of Ontario delay enactment of clauses affecting municipal concerns
- THAT the Province of Ontario provide a longer transition period up to December 2022 for non-mandatory programs to enable coordination of CA-municipal budget processes
- THAT the Province respect the current conservation authority/municipal relationships
- AND THAT the Province embrace their long-standing partnership with the conservation authorities and provide them with the tools and financial resources they need to effectively implement their watershed management role.



Background

Concerns About Changes to the *Conservation Authorities Act* and *Planning Act* Which Affect Conservation Authorities

November 12, 2020

The Province has introduced a number of changes to the *Conservation Authorities Act* and the *Planning Act* that significantly either limit and completely change the role of conservation authorities to protect Ontario's environment and ensure people and property are safe from natural hazards. The changes risk watering down or limiting the conservation authorities' ability to ensure a watershed-based approach to development and to overall protection of Ontario's environment.

Highlights of Key Changes:

- remove and/or significantly hinder the conservation authorities' role in regulating development, permit and planning application appeal process and engaging in review and appeal of municipal planning applications
- allow the Minister make decisions on permit appeals and issue permits without watershed data and expertise from the conservation authorities
- redirect the fiduciary role (Duty of Members) for municipally appointed CA Board members. They are being told to make decisions in the best interest of the municipalities and not the conservation authority.

Conservation Authority Transparency and Accountability

There are a number of changes which appear administrative in nature which we acknowledge will address concerns around conservation authorities' transparency and accountability. CA Administrative By-Laws were completed by the December 2018 legislated deadline and should already address these concerns including making key documents publicly available; including meeting agendas, meeting minutes, and annual audits.

Conservation Ontario Concerns

Ontario's environment will be at risk.

Provincial changes to both the *Conservation Authorities Act* and the *Planning Act* risk watering down or losing the conservation authorities' science-based watershed approach which currently protects Ontario's environment.

- Conservation authorities are important agencies who help protect Ontario's environment. Their science-based watershed information helps to steer development to appropriate places where it will not harm the environment or create risks to people.
- CAs bring the watershed science and information to the various tables where development and growth are being reviewed and discussed.
- Provincial changes limit the conservation authorities' ability to provide input to municipal planning applications and to permit decisions and appeals.

- The conservation authority watershed model has served Ontario well and is relied upon by many levels of government, businesses and residents to protect the environment from upstream to downstream.
- Conservation authorities undertake watershed-scale monitoring, data collection management and modelling; watershed-scale studies, plans, assessments and strategies; and watershed-wide actions including stewardship, communication, outreach and education activities that protect our environment on a watershed basis.

Provincial changes will actually create more costs, delays and red tape around permit and planning applications and appeals.

- There are new appeal processes which will significantly slow down the permitting process creating delays and more red tape.
- If applicants are not satisfied with decisions made by the Hearing Boards (CA Board of Directors and/or Executive), then applicants can now appeal directly to the Minister who can make his or her own decision and even issue a permit.

Changes made by the Province to the conservation authorities' role in not being allowed to independently appeal decisions made around permits and municipal planning applications will put more people and infrastructure at risk of flooding and other natural hazards and add additional stressors to Ontario's biodiversity.

- Conservation authorities' regulatory role is not always a popular one but it is very important. Being able to participate in appeals processes ensures that the watershed lens is being applied to planning and land use decisions and that people and their property are protected from natural hazards such as flooding.
- Changes have been made to the conservation authorities' role in the permit appeal process. They are no longer allowed to appeal these decisions independently.
- Without our ability to look at development applications on a watershed basis, we run the risk of the plan review process being piecemealed and ultimately the potential to exasperate risks associated with natural hazards and for cumulative negative environmental impacts.

The Province has removed the responsibility for municipally appointed CA Board members to represent the interests of the Conservation Authority.

- The Province has changed the 'Duty to Members' section of the CAA to have municipal representatives on CA Boards actually act in the interests of their own municipality rather than the conservation authority's interests.
- It contradicts the fiduciary duty of board members of any organization to represent the best interests of the corporation they are overseeing. It puts an individual municipal interest above the conservation authority interests.
- This change undermines the ability of the CA Board to address the broader environmental/resource management issues facing our watersheds today. It limits discourse on

these issues and consideration of programs and services that address watershed-wide issues that span municipal boundaries is paramount in a time of increasing climate change.

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Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

1ST SESSION, 42ND LEGISLATURE, ONTARIO
69 ELIZABETH II, 2020

Bill 229

**An Act to implement Budget measures and to enact,
amend and repeal various statutes**

The Hon. R. Phillips
Minister of Finance

Government Bill

1st Reading November 5, 2020

2nd Reading

3rd Reading

Royal Assent



SCHEDULE 4 CITY OF TORONTO ACT, 2006

Amendments are made to section 278 of the *City of Toronto Act, 2006* with respect to the tax rates for municipal purposes for the subclasses prescribed under subsection 8 (1) of the *Assessment Act*. The amendments provide that the City may, by by-law, provide for different percentages than those that are set out in the Act, to a maximum of 35 per cent.

Amendments are made to section 331 of the Act with respect to the vacant unit rebate. The amendments provide that the City may, by by-law, elect not to have a program to provide tax rebates to owners of property that has vacant portions. The City is also given several options respecting the requirements of its program.

SCHEDULE 5 COMMERCIAL TENANCIES ACT

Part IV of the *Commercial Tenancies Act* is re-enacted to provide temporary protections for certain commercial tenants. Here are some highlights:

1. The Schedule establishes a non-enforcement period for certain tenancies that begins on the day section 1 of Schedule 5 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020* comes into force and ends on a prescribed date. If a landlord exercises a right of re-entry between October 31, 2020 and the start of the non-enforcement period, the landlord must restore possession of the premises to the tenant or, if unable to do so, must compensate the tenant for damages. Also, if a landlord seizes a tenant's goods between October 31, 2020 and the start of the non-enforcement period as a distress for arrears of rent, the landlord must return any unsold goods to the tenant.
2. Regulations may be made to provide for another non-enforcement period that applies in respect of prescribed tenancies.
3. Judges are prohibited from ordering a writ of possession that is effective during the applicable non-enforcement period if the basis for ordering the writ is an arrears of rent. As well, the amendments prohibit landlords from exercising a right of re-entry and from seizing any goods or chattels as a distress for arrears of rent during the applicable non-enforcement period.

SCHEDULE 6 CONSERVATION AUTHORITIES ACT

The Schedule amends the *Conservation Authorities Act*. The more significant amendments are described below.

Section 14 of the Act is amended to ensure that the members of a conservation authority that are appointed by participating municipalities are municipal councillors. The Minister is given the authority to appoint an additional member to a conservation authority to represent the agricultural sector.

The objects of a conservation authority described in section 20 of the Act are limited to the provision of programs and services required or permitted under sections 21.1, 21.1.1 and 21.1.2. Section 21.1 requires an authority to provide mandatory programs and services that are prescribed by regulation and meet the requirements set out in that section. Section 21.1.1 allows authorities to enter into agreements with participating municipalities to provide programs and services on behalf of the municipalities, subject to the regulations. Section 21.1.2 would allow authorities to provide such other programs and services as it determines are advisable to further the purposes of the Act, subject to the regulations. An authority is required to enter into agreements with the participating municipalities in its jurisdiction if any municipal funding is needed to recover costs for the programs or services provided under section 21.1.2. A transition plan shall be developed by an authority to prepare for entering into agreements relating to the recovery of costs. All programs and services must be provided in accordance with any prescribed standards and requirements.

Section 21.2 of the Act allows a person who is charged a fee for a program or services provided by an authority to apply to the authority to reconsider the fee. Section 21.2 is amended to require the authority make a decision upon reconsideration of a fee within 30 days. Further, the amendments allow a person to appeal the decision to the Local Planning Appeal Tribunal or to bring the matter directly to the Tribunal if the authority fails to render a decision within 30 days.

New sections 23.2 and 23.3 of the Act would allow the Minister to take certain actions after reviewing a report on an investigation into an authority's operations. The Minister may order the authority to do anything to prevent or remedy non-compliance with the Act. The Minister may also recommend that the Lieutenant Governor in Council appoint an administrator to take over the control and operations of the authority.

Subsection 28.1 (8) of the Act currently allows a person who applied to a conservation authority for a permit under subsection 28.1 (1) to appeal that decision to the Minister if the authority has refused the permit or issued it subject to conditions. Subsection 28.1 (8) is repealed and replaced with provisions that allow the applicant to choose to seek a review of the authority's decision by the Minister or, if the Minister does not conduct such a review, to appeal the decision to the Local Planning Appeal Tribunal within 90 days after the decision is made. Furthermore, if the authority fails to make a decision with respect to an application within 120 days after the application is submitted, the applicant may appeal the application directly to the Tribunal.

New section 28.1.1 of the Act allows the Minister to order a conservation authority not to issue a permit to engage in an activity that, without the permit, would be prohibited under section 28 of the Act. After making such an order the Minister may issue the permit instead of the conservation authority.

Section 28.3 of the Act is amended to allow a decision of a conservation authority to cancel a permit or to make another decision under subsection 28.3 (5) to be appealed by the permit holder to the Local Planning Appeal Tribunal.

Subsection 30.2 of the Act sets out circumstances in which an officer may enter land within the area of jurisdictions of an authority. Those circumstances are revised by section 19 of the Schedule.

Section 30.4 of the Act is repealed. That section, which has not yet been proclaimed and which would have given officers the power to issue stop orders to persons carrying on activities that could contravene or are contravening the Act, is repealed.

The regulation making authority in section 40 is re-enacted to reflect amendments in the Schedule.

SCHEDULE 7 CREDIT UNIONS AND CAISSES POPULAIRES ACT, 2020

The Schedule repeals the *Credit Unions and Caisses Populaires Act, 1994* and replaces it with the *Credit Unions and Caisses Populaires Act, 2020*. The new Act generally sets out the rules that govern credit unions, including in respect of the establishment of credit unions and their membership, capital structure, governance and business powers.

Changes are made to give the Financial Services Regulatory Authority of Ontario (the Authority) new rule-making powers in relation to its function as the sector regulator.

The Chief Executive Officer of the Authority is given powers to enforce compliance with the Act and may impose administrative penalties for contraventions of or failures to comply with certain requirements under the Act.

The Act provides the Authority with rule-making power over certain matters under the Act. The Lieutenant Governor in Council is given broader regulation-making power over certain matters under the Act, including all matters in respect of which the Authority may make rules.

Consequential amendments are made to update the many statutes that refer to the *Credit Unions and Caisses Populaires Act, 1994*.

SCHEDULE 8 CROWN FOREST SUSTAINABILITY ACT, 1994

The Schedule repeals provisions of the *Crown Forest Sustainability Act, 1994* that address when forest management plans are deemed to include certain parts of agreements or regulations under the *Endangered Species Act, 2007* and related matters.

A new section is added to the Act providing that a person is exempt from certain provisions of the *Endangered Species Act, 2007* while conducting forest operations in a Crown forest, in accordance with an approved forest management plan, and on behalf of the Crown or under the authority of a forest resource licence. Currently, similar provisions are included in a regulation made under the *Endangered Species Act, 2007*.

SCHEDULE 9 EARLY CHILDHOOD EDUCATORS ACT, 2007

The Schedule amends the *Early Childhood Educators Act, 2007* by amending subsection 29 (2.5) to prohibit the removal of certain information from the register.

The Schedule adds section 33.3, which retroactively revokes a member's certificate of registration if the member was previously found guilty of an act of professional misconduct relating to sexual abuse or child pornography. The Schedule also adds subsection 36 (1.1), which prohibits a person who has had a certificate revoked for certain acts of sexual abuse, child pornography or a prescribed sexual act from applying for reinstatement. Subsections 36 (4.2) and (4.3) are added to allow a person to apply for reinstatement if a conviction is overturned on appeal or a pardon has been granted.

Clauses 45 (1) (c.3) and (c.4) are added to the Act to provide regulation-making authority to require a member to report certain findings made against the member to the Registrar and to govern reporting to the Registrar.

The Schedule adds a new section 50.2 to require the implementation of a sexual abuse prevention program by the College. The new sections 57.1 and 57.2 require members to report to the Registrar regarding offences, charges and bail conditions.

Section 59.1.1 is added to deal with transitional matters that arise in relation to the amendments made to the Act by the Schedule.

The Schedule also amends section 59.2 and other related provisions to include allegations of prescribed sexual acts as a basis for providing funding for therapy and counselling.

SCHEDULE 6
CONSERVATION AUTHORITIES ACT

1 The *Conservation Authorities Act* is amended by adding the following section:

Existing aboriginal or treaty rights

1.1 For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for the existing aboriginal and treaty rights of the aboriginal peoples of Canada as recognized and affirmed in section 35 of the *Constitution Act, 1982*.

2 (1) Subsection 14 (1) of the Act is amended by adding “Subject to subsection (3)” at the beginning.

(2) Section 14 of the Act is amended by adding the following subsection:

Municipal councillors appointed

(1.1) The members of the authority shall be municipal councillors chosen by each municipal council from among its own councillors.

(3) Subsection 14 (2) of the Act is amended by striking out “The total number of members of the authority and the number of members that each participating municipality may appoint” at the beginning and substituting “The total number of municipally appointed members of the authority and the number of municipal councillors that each participating municipality may appoint”.

(4) Section 14 of the Act is amended by adding the following subsections:

Municipal agreement

(2.2) If the participating municipalities of an authority enter into an agreement with respect to the total number of municipally appointed members of the authority and the total number of members each municipality may appoint, the authority shall, within 60 days after the agreement is executed,

- (a) provide a copy of the agreement to the Minister; and
- (b) make the agreement available to the public by posting it on the authority’s website and by any other means the authority considers appropriate.

Same, transition

(2.3) If an agreement referred to in subsection (2.2) is in force on the day subsection 2 (4) of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020* comes into force, the relevant authority shall provide a copy of the agreement to the Minister within 60 days after that day.

(5) Subsection 14 (4) of the Act is repealed and the following substituted:

Member from agricultural sector appointed

(4) In addition to the members of an authority appointed in accordance with subsections (1) to (2.1), an additional member may be appointed to the authority by the Minister as a representative of the agricultural sector.

(6) Subsection 14 (4.1) of the Act is amended by adding “or, in the case of a member appointed under subsection (4), by the Minister” at the end.

(7) Subsection 14 (4.3) of the Act is amended by adding “or, in the case of a member appointed under subsection (4), by the Minister” at the end.

3 The Act is amended by adding the following section:

Duties of members

14.1 Every member of an authority shall act honestly and in good faith and, in the case of the members appointed by participating municipalities, shall generally act on behalf of their respective municipalities.

4 Section 15 of the Act is amended by adding the following subsections:

Agenda, minutes to be made public

(2.1) Subject to the *Municipal Freedom of Information and Protection of Privacy Act*, the authority shall,

- (a) make the agenda for a meeting of the authority or of its executive committee available to the public before the meeting takes place; and
- (b) make the minutes of a meeting of the authority or of its executive committee available to the public within 30 days after the meeting.

Same

(2.2) An agenda for a meeting or its minutes that are to be made available to the public under subsection (2.1) shall be made available by posting them on the authority's website and by any other means the authority considers appropriate.

5 Section 17 of the Act is amended by adding the following subsection:

Term of chair, vice-chair

(1.1) A chair or vice-chair appointed under subsection (1) shall hold office for a term of one year and shall serve for no more than two consecutive terms.

6 Subsection 19.1 (6) of the Act is repealed.

7 (1) Subsection 20 (1) of the Act is repealed and the following substituted:

Objects

(1) The objects of an authority are to provide, in the area over which it has jurisdiction,

- (a) the mandatory programs and services required under section 21.1;
- (b) any municipal programs and services that may be provided under section 21.1.1; and
- (c) any other programs or services that may be provided under section 21.1.2.

(2) Subsection 20 (2) of the Act is amended by striking out “Despite subsection (1) and subject to any other legislation pertaining to these resources” at the beginning and substituting “Subject to any other Act relating to gas or oil resources”.

8 (1) Clause 21 (1) (a) of the Act is repealed and the following substituted:

- (a) to research, study and investigate the watershed and to support the development and implementation of programs and services intended to further the purposes of this Act;

(2) Clause 21 (1) (b) of the Act is amended by striking out “to enter into and upon any land” and substituting “to enter into and upon any land, with consent of the occupant or owner”.

(3) Clause 21 (1) (c) of the Act is amended by striking out “and to expropriate”.

(4) Clause 21 (1) (p) of the Act is repealed.

9 (1) Section 21.1 of the Act is repealed and the following substituted:

Mandatory programs and services

21.1 (1) An authority shall provide the following programs or services within its area of jurisdiction:

1. Programs or services that meet any of the following descriptions and that have been prescribed by the regulations:
 - i. Programs and services related to the risk of natural hazards.
 - ii. Programs and services related to the conservation and management of lands owned or controlled by the authority, including any interests in land registered on title.
 - iii. Programs and services related to the authority's duties, functions and responsibilities as a source protection authority under the *Clean Water Act, 2006*.
 - iv. Programs and services related to the authority's duties, functions and responsibilities under an Act prescribed by the regulations.
2. Programs or services, other than programs or services described in paragraph 1, that have been prescribed by the regulations on or before the first anniversary of the day prescribed under clause 40 (3) (i).

Same, Lake Simcoe Region Conservation Authority

(2) In addition to the programs and services required to be provided under subsection (1), the Lake Simcoe Region Conservation Authority shall provide, within its area of jurisdiction, such programs and services as are prescribed by the regulations and are related to its duties, functions and responsibilities under the *Lake Simcoe Protection Act, 2008*.

Standards and requirements

(3) Programs and services required to be provided under subsections (1) and (2) shall be provided in accordance with such standards and requirements as may be set out in the regulations.

Municipal programs and services

21.1.1 (1) Subject to the regulations, an authority may provide, within its area of jurisdiction, municipal programs and services that it agrees to provide on behalf of a municipality situated in whole or in part within its area of jurisdiction under a

memorandum of understanding, or such other agreement as may be entered into with the municipality, in respect of the programs and services.

Memorandum, agreement available to public

(2) An authority shall make a memorandum of understanding or other agreement available to the public in such manner as may be determined in the memorandum or agreement.

Periodic review of memorandum, agreement

(3) An authority and a municipality who have entered into a memorandum of understanding or other agreement shall review the memorandum or agreement at such regular intervals as may be determined in the memorandum or agreement.

Terms and conditions

(4) Programs and services that an authority agrees to provide on behalf of a municipality shall be provided in accordance with,

- (a) the terms and conditions set out in the memorandum of understanding or agreement; and
- (b) such standards and requirements as may be prescribed.

Conflict

(5) If there is a conflict between the terms and conditions set out in the memorandum of understanding or agreement and the prescribed standard and requirements, the prescribed standards and requirements prevail.

Other programs and services

21.1.2 (1) Subject to the regulations, in addition to programs and services described in sections 21.1 and 21.1.1, an authority may provide, within its area of jurisdiction, any other programs and services that it determines are advisable to further the purposes of this Act.

Prescribed standards

(2) Programs and services provided under subsection (1) shall be provided in accordance with such standards and requirements as may be prescribed.

Consultation

21.1.3 An authority shall carry out such consultations with respect to the programs and services it provides as may be required by regulation and shall do so in the manner specified by regulation.

(2) Subsection 21.1.2 (2) of the Act, as enacted by subsection (1), is repealed and the following substituted:

Agreement

(2) On and after the day prescribed by the regulations, if financing under section 25 or 27 by a participating municipality is necessary in order for an authority to provide a program or service authorized to be provided under subsection (1), the program or service shall not be provided by the authority unless an agreement that meets the following criteria has been entered into between the authority and the participating municipality in respect of the program or service:

1. The agreement must provide for the participating municipality to pay to the authority,
 - i. an apportioned amount under section 25 in connection with a project related to the program or service, or
 - ii. an apportioned amount under section 27 in respect of the program or service.
2. The agreement must include provisions setting out the day on which the agreement terminates and a requirement that it be reviewed by the parties within the period specified in the regulations for the purpose of determining whether or not the agreement is to be renewed by the parties.
3. The agreement must meet such other requirements as may be prescribed by the regulations.

Terms and conditions

(3) Programs and services that an authority agrees to provide under an agreement described in subsection (2) shall be provided in accordance with,

- (a) such terms and conditions as may be set out in the agreement; and
- (b) such standards and requirements as may be prescribed.

Conflict

(4) If there is a conflict between the terms and conditions set out in an agreement described in subsection (2) and the prescribed standards and requirements, the prescribed standards and requirements prevail.

10 The Act is amended by adding the following section:

Transition plan re s. 21.1.2 (2)

21.1.4 (1) Every authority shall develop and implement a transition plan for the purpose of ensuring that it will be in compliance with subsection 21.1.2 (2) by the day prescribed by the regulations for the purpose of that subsection.

Contents

(2) The transition plan shall address the following matters in accordance with the regulations:

1. Preparation by the authority of an inventory of the authority's programs and services.
2. Consultation by the authority with participating municipalities on the inventory of programs and services mentioned in paragraph 1.
3. If financing under section 25 or 27 by a participating municipality is necessary in order for the authority to provide a program or service authorized to be provided under subsection 21.1.2 (1), steps to be taken by the authority for the purposes of seeking to enter into an agreement with the participating municipality in respect of that program or service.
4. Such other matters as may be prescribed by the regulations.

11 Section 21.2 of the Act is amended by adding the following subsections:

Reconsideration of fees for permit applications

(13) If an authority receives a request for reconsideration of a fee charged for an application for a permit made under subsection 28.1 (2), the authority shall make its decision within 30 days after receiving the request.

Appeal if no decision

(14) If an authority fails to reconsider a fee described in subsection (13) within 30 days of receiving the request for reconsideration, the person who made the request may appeal the amount of the fee directly to the Local Planning Appeal Tribunal.

Payment of fee

(15) If, after reconsideration of a fee charged for an application for a permit made under subsection 28.1 (2), an authority orders a person to pay the fee under clause (12) (a) or (b), the person shall pay the fee in accordance with the order.

Payment of fee under protest and appeal

(16) A person who pays a fee under subsection (15) may,

- (a) when paying the fee, indicate to the authority in writing that the fee is being paid under protest; and
- (b) within 30 days after payment of the fee, appeal the amount charged by the authority upon reconsideration to the Local Planning Appeal Tribunal.

Appeal of fee in fee schedule

(17) For greater certainty, an appeal of the amount of a fee under subsection (14) or clause (16) (b) applies even if the amount charged was set out in the fee schedule prepared by the authority under subsection (6).

Hearing

(18) The Local Planning Appeal Tribunal shall hear an appeal made under subsection (14) or clause (16) (b).

Powers on appeal

(19) After hearing the appeal, the Local Planning Appeal Tribunal may,

- (a) dismiss the appeal;
- (b) vary the amount of the fee charged by the authority; or
- (c) order that no fee be charged.

Refund

(20) If the Local Planning Appeal Tribunal makes an order under clause (19) (b) or (c), it may order that the authority provide a refund to the appellant in such amount as the Tribunal determines.

Where dismissal required

(21) Despite subsection (19), the Local Planning Appeal Tribunal shall dismiss the appeal if it determines that the fee complies with a regulation made under clause 40 (3) (b).

12 Section 23.1 of the Act is amended by adding the following subsections:

Immunity for investigators

(9) No action or other proceeding shall be instituted against an investigator appointed under subsection (4) for any act done in good faith in the performance or intended performance of their duties under this Act or for any alleged neglect or default in the performance in good faith of their duties.

Same

(10) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (9) does not relieve the Crown of any liability to which it would otherwise be subject as a result of the actions of an investigator appointed under subsection (4).

13 The Act is amended by adding the following sections:

Minister's order, etc.

23.2 (1) If, after reviewing the report of an investigator made under subsection 23.1 (7), the Minister believes that an authority has failed, or is likely to fail, to comply with a provision of this Act or the regulations or of any other Act or regulation that applies to the authority, the Minister may,

- (a) order the authority to do or refrain from doing anything to avoid, prevent or remedy the non-compliance; or
- (b) if the Minister believes it is advisable to do so, recommend to the Lieutenant Governor in Council that an administrator be appointed to take over the control and operation of the authority under section 23.3.

Compliance with order

(2) An authority shall comply with an order made under clause (1) (a) within the time specified in the order.

Public availability

(3) The Minister shall make every order made under clause (1) (a) available to the public in the manner the Minister considers appropriate.

Appointment of administrator

23.3 (1) If the Minister makes a recommendation under clause 23.2 (1) (b), the Lieutenant Governor in Council may make an order appointing an administrator to take over the control and operations of the authority, including the provision of programs and services that the authority provides.

Powers of administrator

(2) The administrator may exercise all the powers and shall perform all the duties of the authority and of its members subject to such terms and conditions as may be specified in the appointment or by the Minister.

Notice to authority

(3) The Minister shall ensure that a copy of an order under subsection (1) is delivered to the authority and to the participating municipalities as soon as is practical after it is made.

Powers of Minister

(4) The Minister may issue directions to the administrator with regard to any matter within the jurisdiction of the administrator and the administrator shall carry out the directions.

Immunity for administrator

(5) No action or other proceeding shall be instituted against an administrator appointed under subsection (1) for any act done in good faith in the performance or intended performance of their duties under this Act or for any alleged neglect or default in the performance in good faith of their duties.

Same

(6) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (5) does not relieve the Crown of any liability to which it would otherwise be subject as a result of the actions of an administrator appointed under subsection (1).

14 Section 27.1 of the Act is amended by striking out "Mining and Lands Commissioner" wherever it appears and substituting in each case "Local Planning Appeal Tribunal".

15 Section 27.2 of the Act is amended by striking out "Mining and Lands Commissioner" wherever it appears and substituting in each case "Local Planning Appeal Tribunal".

16 (1) Section 28.1 of the Act is amended by adding the following subsection:

Definition, pollution

(6.1) In subsection (1) and (6),

"pollution" means pollution as defined by regulation.

(2) Subsections 28.1 (8) and (9) of the Act are repealed and the following substituted:

Request for Minister's review

(8) Subject to the regulations, where the authority refuses a permit or imposes any conditions on a permit to which the applicant objects, the applicant may, within 15 days of receiving reasons for the authority's decision, submit a request to the Minister for the Minister to review the authority's decision.

Reply by Minister

(9) Within 30 days after receiving a request under subsection (8), the Minister shall reply to the request and indicate in writing to the applicant and the authority whether or not the Minister intends to conduct a review of the authority's decision. Failure on the part of the Minister to reply to a request within the 30 day period is deemed to be an indication that the Minister does not intend to review the authority's decision.

Same

(10) If a reply given under subsection (9) indicates that the Minister intends to conduct a review, the Minister may in the reply require the applicant and the authority to provide the Minister with such information as the Minister considers necessary to conduct the review.

Information

(11) The applicant and the authority shall submit to the Minister such information as was specified in the reply given under subsection (9) within the time period specified in the reply.

Publication of notice of review

(12) The Minister shall publish on the Environmental Registry notice of the Minister's intention to review a decision made by an authority and shall do so within 30 days of giving a reply to that effect under subsection (9).

No hearing required

(13) The Minister is not required to hold a hearing while conducting a review of an authority's decision.

Conferring with persons, etc.

(14) Before making a decision with respect to a review, the Minister may confer with any person or body that the Minister considers may have an interest in the review.

Minister's decision

(15) After conducting a review of an authority's decision, the Minister may confirm or vary the authority's decision or make any decision that the Minister considers appropriate, including issuing the permit subject to conditions.

Same

(16) The Minister shall base any decision under subsection (15) on the criteria set out in clauses (1) (a), (b) and (c).

Reasons

(17) If, upon conducting a review of an authority's decision, the Minister decides to refuse to issue a permit or to issue a permit subject to conditions, the Minister shall give the applicant and the authority written reasons for the decision.

Copy to authority

(18) If the Minister issues a permit under subsection (15), the Minister shall give a copy of the permit to the authority within five days after the permit is issued.

Decision final

(19) A decision made by the Minister under subsection (15) is final.

Appeal to Tribunal

(20) Within 90 days after receiving the reasons for the authority's decision under subsection (7), the applicant may appeal the authority's decision to the Local Planning Appeal Tribunal, subject to subsection (21).

Exception

(21) An applicant who submitted a request under subsection (8) for the Minister to conduct a review of an authority's decision shall not appeal the decision to the Local Planning Appeal Tribunal under subsection (20) unless,

- (a) the Minister's reply under subsection (9) indicated that the Minister refused to conduct the review; or
- (b) 30 days have elapsed following the day the applicant submitted the request for a Minister's review and the Minister has not made a reply under subsection (9).

Appeal, no decision by authority

(22) If an application for a permit is made to the authority and the application complies with subsection (3), and if the authority fails to give the applicant notice of a decision with respect to the application within 120 days after the application is made, the applicant may appeal the application directly to the Local Planning Appeal Tribunal.

Appeal, no decision by Minister

(23) If the Minister indicates in a reply given under subsection (9) that the Minister intends to review an authority's decision and the Minister fails to make a decision within 90 days of giving the reply, the applicant may, within the next 30 days, appeal the authority's decision directly to the Local Planning Appeal Tribunal.

Notice of Appeal

(24) A notice of an appeal under subsection (20), (22) or (23) shall be sent to the Local Planning Appeal Tribunal and to the authority by registered mail.

Hearing by Tribunal

(25) The Local Planning Appeal Tribunal shall fix a date for a hearing of an appeal under subsection (20), (22) or (23), give notice to all interested parties and give all necessary direction for the hearing.

Powers of the Tribunal

(26) The Local Planning Appeal Tribunal has authority to take evidence, to refuse the permit or to order the authority to issue the permit, with or without conditions.

17 The Act is amended by adding the following section:**Permits issued by Minister****Minister's order**

28.1.1 (1) Despite subsection 28.1 (1) and subject to the regulations, the Minister may, by order,

- (a) direct an authority not to issue a permit to a person who wishes to engage in a specified activity that, without the permit, would be prohibited under section 28 in the area of jurisdiction of the authority; or
- (b) direct the authorities that are specified in the order not to issue permits to persons who may wish to engage in a type or class of activity described in the order that, without the permit, would be prohibited under section 28 and to continue to refrain from doing so for such period as may be specified in the order.

Minister's power

(2) If an order is made under subsection (1), the Minister has the power to issue a permit to engage in any activity described in the order that would otherwise be prohibited under section 28 if, in the Minister's opinion, the criteria described in clauses 28.1 (1) (a), (b) and (c) are satisfied.

Same

(3) An order made under clause (1) (a) may be made either before or after an application for a permit has been submitted to the relevant authority.

Same

(4) An order made under clause (1) (b) may provide that it applies to activities even if applications for permits have been submitted to the relevant authorities and decisions with respect to the applications are currently pending.

Notice of order

(5) Notice of an order made under subsection (1) shall be,

- (a) given to every authority that is directed by the order not to issue one or more permits;
- (b) given to any person who submitted an application for the permits in question before the order was made where the application is still pending; and
- (c) posted on the Environmental Registry within 30 days of being made.

Information forwarded to Minister

(6) If an application for a permit to engage in an activity is submitted to an authority under section 28.1 before the day an order is made under this section directing the authority to not issue such a permit,

- (a) the authority shall forward to the Minister all documents and information relating to the application that were submitted by the applicant and shall do so within the time period set out in the order, if any; and
- (b) the applicant shall forward to the Minister such further information as the Minister may specify in the order and shall do so within the time period set out in the order, if any.

Application to Minister

(7) If an order is made under this section that prevents an authority from issuing a permit to engage in an activity in circumstances where an application for such a permit has not yet been submitted to the authority but may be submitted in the future,

- (a) any person who wishes to engage in the activity shall submit to the Minister,
 - (i) an application for a permit to do so that includes such information as may be specified in the regulation,
 - (ii) a fee in the same amount as the fee that the person would have paid to the authority had the application been submitted to the authority, and
 - (iii) any information that the Minister believes is necessary to make a determination with respect to the issuance of the permit and that may be specified in the order; and
- (b) if the authority receives an application for such a permit after the day the order is made, the authority shall direct the applicant to submit the application in accordance with clause (a).

Conferring with persons, etc.

(8) Before making a decision with respect to an application for a permit, the Minister may confer with any person or body that the Minister considers may have an interest in the application.

Conditions

(9) The Minister may issue a permit subject to such conditions as the Minister determines are appropriate.

Reasons

(10) If the Minister refuses a permit or issues a permit subject to conditions, the Minister shall give the applicant written reasons for the decision and shall provide a copy of the reasons to the relevant authority.

Copy to authority

(11) If the Minister issues a permit under this section, the Minister shall give a copy of the permit to the authority that has jurisdiction over the watershed for which the permit is valid within five days after the permit is issued.

Decision final

(12) A decision made by the Minister with respect to an application for a permit is final.

Appeal

(13) If an application for a permit is made or forwarded to the Minister under this section and the application complies with the requirements of subsection 28.1 (3) or clause (7) (a) of this section, as the case may be, and if the Minister fails to give the applicant notice of a decision with respect to the application within 90 days after the application is made, the applicant may appeal the application directly to the Local Planning Appeal Tribunal.

Same

(14) Subsections 28.1 (24), (25) and (26) apply with necessary modifications to an appeal to the Local Planning Appeal Tribunal made under subsection (13).

18 (1) Subsection 28.3 (1) of the Act is amended by striking out “section 28.1” and substituting “section 28.1 or 28.1.1”.

(2) Section 28.3 of the Act is amended by adding the following subsections:

Appeal

(6) If the authority confirms the cancellation of a permit or makes another order under subsection (5) to which the permit holder objects, the permit holder may, within 90 days of receiving notice of the authority’s decision, appeal the decision to the Local Planning Appeal Tribunal.

Same

(7) A notice of an appeal under subsection (6) shall be sent to the Local Planning Appeal Tribunal and to the authority by registered mail.

Hearing

(8) The Local Planning Appeal Tribunal shall fix a date for a hearing of an appeal under subsection (6), give notice to all interested parties and give all necessary direction for the hearing.

Powers of the Tribunal

(9) The Local Planning Appeal Tribunal has authority to take evidence, to confirm, rescind or vary the decision to cancel the permit, with or without conditions.

19 (1) Subsection 30.2 (1) of the Act is repealed and the following substituted:

Entry without warrant, permit application

(1) An officer appointed by an authority under section 30.1 may enter any land situated in the authority's area of jurisdiction, without a warrant and without the consent of the owner or occupier, if,

- (a) an application has been submitted under section 28.1 or 28.1.1 for a permit to engage in an activity with respect to the land;
- (b) the entry is for the purpose of determining whether to issue a permit; and
- (c) the officer has given reasonable notice of the entry to the owner and to the occupier of the property.

Entry without warrant, compliance

(1.1) An officer appointed by an authority under section 30.1 may enter any land situated in the authority's area of jurisdiction, without a warrant and without the consent of the owner or occupier, if,

- (a) the entry is for the purpose of ensuring compliance with subsection 28 (1) or a regulation made under section 28.5 or with the conditions of a permit issued under section 28.1 or 28.1.1 or of a permit issued under a regulation made under clause 28.5 (1) (c);
- (b) the officer has reasonable grounds to believe that a contravention of a provision of the Act or a regulation referred to in clause (a) or of a condition of a permit referred to in clause (a),
 - (i) is causing or likely to have a significant effect on the control of flooding, erosion, dynamic beaches or the pollution or conservation of land, or
 - (ii) is likely to create conditions or circumstances in the event of a natural hazard that might jeopardize the health and safety of persons or result in significant damage or destruction of property; and
- (c) the officer has reasonable grounds to believe that the entry is required to prevent or reduce the effects or risks described in clause (b).

(2) Subsections 30.2 (2) to (5) of the Act are amended by striking out “subsection (1)” wherever it occurs and substituting in each case “subsection (1) or (1.1)”.

20 Section 30.4 of the Act is repealed.

21 Subsection 30.5 (1) of the Act is amended by,

- (a) adding “or” at the end of clause (a);
- (b) striking out “section 28.1” in clause (b) and adding “section 28.1 or 28.1.1”;
- (c) striking out “or” at the end of clause (b); and
- (d) revoking clause (c).

22 Section 31 of the Act is repealed.

23 The Act is amended by adding the following section:

Delegation

36.1 (1) The Minister may in writing delegate any of his or her powers or duties under this Act to an employee in the Ministry specified in the delegation, other than the power to make a regulation under this Act.

Same

(2) A reference in this Act or the regulations to the Minister shall, for the purpose of a delegation under subsection (1), be deemed to be a reference to the delegate.

24 (1) Subsection 38 (1) of the Act is repealed and the following substituted:

Annual audit

(1) Every authority shall cause its accounts and transactions to be audited annually by a person licensed under the *Public Accounting Act, 2004* and shall ensure that the annual audit is prepared in accordance with generally accepted accounting principles for local governments recommended by the Public Sector Accounting Board of the Chartered Professional Accountants of Canada, as they exist from time to time.

(2) Section 38 of the Act is amended by adding the following subsection:

Report made publicly available

(4) Within 60 days of receiving the auditor's report, an authority shall make the report available to the public on its website and by any other means that the authority considers appropriate.

25 (1) Section 40 of the Act is repealed and the following substituted:

Regulations, Lieutenant Governor in Council

40 (1) The Lieutenant Governor in Council may make regulations,

- (a) governing advisory boards established under subsection 18 (2), including requiring authorities to establish one or more advisory boards and prescribing requirements with respect to the composition, functions, powers, duties, activities and procedures of any advisory board that is established;
- (b) governing programs and services that authorities may provide including,
 - (i) prescribing mandatory programs and services for the purposes of subsections 21.1 (1) and (2),
 - (ii) prescribing Acts for the purposes of subparagraph 1 iv of subsections 21.1 (1),
 - (iii) respecting standards and requirements applicable to programs and services for the purposes of subsection 21.1 (3), and
 - (iv) prescribing or limiting the types of municipal programs and services that an authority may agree to provide under section 21.1.1 or other programs and services that an authority may provide under section 21.1.2 and respecting any conditions or circumstances that are required to exist before such programs and services may be provided;
- (c) governing the apportionment of an authority's capital costs in connection with a project for the purposes of section 25;
- (d) governing reviews under sections 26 and 27.1, including prescribing a body that may conduct such reviews instead of the Local Planning Appeal Tribunal;
- (e) governing the apportionment of an authority's operating expenses for the purposes of section 27, prescribing expenses as operating expenses for the purposes of section 27, governing the amount that participating municipalities are required to pay under section 27, including the fixed amount that a participating municipality may be required to pay under subsection 27 (2), and restricting and prohibiting the apportionment of certain types of operating expenses;
- (f) providing for transitional rules respecting appeals to the Local Planning Appeals Tribunal under subsection 28.1 (20) and respecting any appeals on decisions of an authority with respect to the issuance of a permit under subsection 28.1 (1) that were made to the Minister before the day subsection 28.1 (20) came into force;
- (g) governing Minister's reviews of decisions made by an authority to refuse to issue a permit or to issue permits subject to conditions that may be requested under subsection 28.1 (8), including prescribing circumstances under which reviews may or may not be requested or conducted;
- (h) governing transitional matters resulting from the implementation of Minister reviews requested under subsection 28.1 (8) and from the coming into force of section 28.1.1;
- (i) governing the issuance of permits by the Minister under section 28.1.1 including prescribing circumstances in which the Minister may or may not make an order under subsection 28.1.1 (1);
- (j) defining any term that is used in this Act and that is not defined in this Act;
- (k) respecting anything that is necessary or advisable for the proper administration of this Act.

Same

(2) The standards and requirements established for programs and services in a regulation made under clause (1) (b) may include standards and requirements to mitigate the impacts of climate change and provide for adaptation to a changing climate, including through increasing resiliency.

Regulations, Minister

(3) The Minister may make regulations,

- (a) prescribing matters that may be the subject of by-laws made under clause 19.1 (1) (j);
- (b) respecting the amount of any fee that may be charged by an authority in relation to a program or service, including determining the manner in which the fee is calculated;
- (c) respecting standards and requirements applicable to programs and services for the purposes of clause 21.1.1 (4) (b) and subsection 21.1.2 (2);
- (d) prescribing the period for the purposes of paragraph 2 of subsection 21.1.2 (2);
- (e) prescribing requirements for the purposes of paragraph 3 of subsection 21.1.2 (2);
- (f) governing consultations that an authority must carry out for the purposes of section 21.1.3;
- (g) governing the matters to be addressed in a transition plan under section 21.1.4 and prescribing additional matters to be addressed, including requiring the submission to the Ministry of the inventory mentioned in paragraph 1 of subsection 21.1.4 (2);

- (h) governing the information that authorities must provide to the Minister under section 23.1, including the publication of that information;
- (i) prescribing a day for the purposes of subsections 25 (1.1) and 27 (1.1);
- (j) prescribing circumstances for the purposes of subsections 25 (1.3) and 27 (1.3);
- (k) governing the determination of amounts owed under subsection 27.2 (2).

(2) Section 40 of the Act, as re-enacted by subsection (1), is amended by adding the following subsection:

Minister's regulations, ss. 28 to 28.4

(4) The Minister may make regulations,

- (a) governing the prohibitions set out in section 28, including,
 - (i) prescribing the limits on river and stream valleys for the purposes of subparagraph 2 iii of subsection 28 (1),
 - (ii) determining or specifying areas for the purposes of subparagraph 2 iv of subsection 28 (1),
 - (iii) determining or specifying areas in which development should be prohibited or regulated for the purposes of subparagraph 2 v of subsection 28 (1),
 - (iv) prescribing activities or types of activities to which the prohibitions set out in subsection 28 (1) do not apply and respecting the manner or circumstances in which the activities or types of activities may be carried out and any conditions or restrictions that apply to the activity or type of activity,
 - (v) prescribing areas in which the prohibitions set out in subsection 28 (1) do not apply and respecting the manner or circumstances in which the activities may be carried out in such areas, and any conditions or restrictions that apply to carrying out activities in such areas,
 - (vi) defining “development activity”, “hazardous land”, “watercourse” and “wetland” for the purposes of section 28;
- (b) governing applications for permits under section 28.1, the issuance of the permits and the power of authorities to refuse permits, including prescribing requirements that must be met for the issuance of permits under clause 28.1 (1) (c), conditions that may be attached to a permit or circumstances in which a permit may be cancelled under section 28.3 and respecting the period for which a permit is valid under section 28.2;
- (c) defining “pollution” for the purposes of section 28.1;
- (d) governing the delegation of powers by an authority under section 28.4 and prescribing any limitations or requirements related to the delegation.

CONSEQUENTIAL AMENDMENTS

Planning Act

26 Subsection 1 (2) of the *Planning Act* is amended by striking out “all ministries” and substituting “all conservation authorities under the *Conservation Authorities Act* and all ministries”.

Building Better Communities and Conserving Watersheds Act, 2017

27 Subsection 24 (2) of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* is repealed.

More Homes, More Choice Act, 2019

28 Sections 3 and 4, subsection 8 (2) and section 9 of Schedule 2 to the *More Homes, More Choice Act, 2019* are repealed.

COMMENCEMENT

Commencement

29 (1) Subject to subsection (2), this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Sections 20, 27 and 28 come into force on the day the *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020* receives Royal Assent.

Grey Sauble Authority Board of Directors

MOTION

DATE: November 17, 2020

MOTION #: FA-20-082

MOVED BY: _____

SECONDED BY: _____

WHEREAS in 2019, the Ontario Government amended the Conservation Authorities Act through the Focusing CA Permits on Protection of People and Property, and the Modernizing CA Operations initiatives, AND,

WHEREAS, Ontario's 36 Conservation Authorities and Conservation Ontario have been attempting to effectively communicate and consult with the Province on these changes and the pending regulations, AND,

WHEREAS on November 5th, 2020, the Province introduced new and unexpected amendments to the Act, AND,

WHEREAS the Board of Directors passed a motion for the establishment of a working group consisting of the Chair and Vice-Chair of the Board, as well as GSCA Staff to articulate the value of conservation authority work, garner support for GSCA's position, and encourage these organizations to convey their support to the Province, AND,

THAT the Board of Directors support the ongoing efforts of this Working Group, including garnering partner and stakeholder support, sending correspondence to Mayors and Councils, sending correspondence to local MPPs, to Minister Yurek, Minister Yakabuski, and Premier Ford, AND,

THAT the Board of Directors seek to have the attached Municipal Resolution approved by their respective Councils, AND,

THAT GSCA Staff be directed to support Conservation Ontario's communication Advocacy Strategy through various platforms, including social media, GSCA website, and media releases.



STAFF REPORT

Report To: Board of Directors

Report From: Andrew Sorensen, Environmental Planning Coordinator

Meeting Date: November 17, 2020

Report Code: 33-2020

Subject: Exception to Dynamic Beach Policy and Permit Application
GS20-363 from the Town of South Bruce Peninsula

Recommendation:

THAT the board of directors authorize an exception to policy 8.6.8 to allow the issuance of permit GS20-363 for the installation of a retaining wall in accordance with the submitted application and engineered plan.

Strategic Initiative

This item is related to the "Improve Service Excellence" priority that was set out by GSCA in 2017.

Background

GSCA received a preliminary application from the Town of South Bruce Peninsula to put in a retaining wall in an attempt to achieve a greater width of parking along Lakeshore Boulevard, Sauble Beach and increase safety for beach goers. The original application was received Sept. 15, 2020 and the GSCA requested further information and details. The Attached engineer's plan was received November 10, 2020. Staff completed a site inspection on November 12, 2020 to review the proposal. In addition to the structural engineer's plan, the below paragraph describes the extend of work as discussed with Town staff.

Attached the engineered cross section for the proposed retaining wall along Lakeshore Blvd in Sauble Beach. At this time the limits of construction are from the access gate north of the Crowd Inn to Kinloss Lane. Excavation depth into the dune will be 7m (23ft) from the edge of pavement at a 2% crossfall. There will be minimal placement of material into the existing dunes behind the proposed wall. There will be some removal of vegetation/ trees within the 7m limits of construction. All excess excavated sand and vegetated material will be hauled away to the Sauble landfill. In areas where the dune height exceeds the 2 blocks the dune will be cut back at a 2:1 slope. No imported fill or gravel is proposed.

The Town has tentatively secured the material and contractor to complete the work. A Town staff report will be brought forward on November 17, 2020 for final direction. Should Council and the GSCA support the project, work would begin immediately to ensure completion can be achieved before winter.

Current Request/Policy Issue

Policy Issue: The following policy from the GSCA Policies for the Administration of the Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation Ontario Regulation 151/06 is applicable for this proposal.

GSCA Policy: **Prohibited Uses within Lake Huron and Georgian Bay Flooding or Erosion Hazards**

8.6.8 Notwithstanding *Sections 8.6.2-8.6.7, **development*** will not be permitted in accordance with the policies in *Section 7.1.6 – General Policies*, or where the proposed location is:

- a) on lands within dynamic beach hazard and its associated allowance,
- b) used for a Stormwater Management Facility,
- c) used for underground parking, *or*
- d) within areas that would be rendered inaccessible to people or vehicles during times of flooding hazards, erosion hazards and/or dynamic beach hazards unless safe access is available.

Discussion:

The proposal requires modification of the dune by excavation, site alteration and the placement of a retaining wall. This activity would be considered development that is not consistent with the above noted policy.

The Town has had an engineered plan from a structural engineer that provides details of the proposal. The GSCA Shoreline Management Plan (1994) acknowledges that road maintenance is assumed to continue for this reach of shoreline. It also notes that no new development should be allowed lakeward of Lakeshore Boulevard. No assessment was completed by a coastal engineer and no consultation has been undertaken with the Lake Huron Coastal Centre. As the term implies the dunes are dynamic and will continue to move and shift. The road location will not change and the wall may assist the Town in maintaining their infrastructure. The Town may consider further length of retaining wall if the intended consequences are realized.

Based on a site inspection dated November 12, 2020, the estimated encroachment or potential for excavation into the dunes varies from approximately 0.30 metres to a maximum of 2.5 metres. There are some trees and shrubs that would be removed to accommodate the wall. Some current signs would also need to be relocated further from the road. Existing beach access points would be maintained and any drainage outlets. We also noted that this section of dune is the narrowest portion along Lakeshore Boulevard and maintaining existing vegetation on the dune is important particularly in these times of higher water levels.

GSCA originally suggested that any dune sand removed be re-purposed back to the beach. However, the Ministry of the Environment, Conservation and Parks

(MECP) had a concern of potential contaminated materials from parked vehicles and thus the latest suggestion was to haul excess material away. It will be difficult to quantify the effect of anticipated continual removal of the sand (along the base of the wall) and the cumulative impacts on ecology of the dunes.

The Town has been in touch with MECP (for Species at Risk) regarding the piping plover habitat and has received correspondence that the timing of the project could go ahead this fall.

In an ideal world, there would not be road here and all development would be landward of the Dynamic Beach Hazard.

Financial/Budget Implications: The review of municipality sponsored projects are covered under the levy portion of the Environmental Planning Budget.

Communication Strategy:

None. This is a Town sponsored project and promoted by the Town.

Consultation:

- CAO, Environmental Planning Coordinator,

Attachments:

- 1) Permit Application
- 2) Site Plan
- 3) Photos (3)

Date of this Report: **November 12, 2020**



Grey Sauble Conservation Authority
R.R.#4 237897 Inglis Falls Road, Owen Sound, Ontario N4K 5N6
phone 519 376-3076 fax 519 371-0437

Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation

Ontario Regulation 151/06

APPLICATION FOR PERMISSION

Application #

For Office Use Only

Grey Sauble Conservation Authority will consider your application based upon the information you provide below.
Please complete all relevant sections, date, sign and return the application along with the appropriate fee to:
Grey Sauble Conservation Authority, R.R.#4 237897 Inglis Falls Road, Owen Sound, Ontario N4K 5N6

Please Print

Applicant's Name: Town of South Bruce Peninsula
Address: PO Box 310
315 George St
Warton ON N0H 2T0
Telephone Home N/A Work 519-534-1400
Cell N/A Fax 519-534-4976
e-mail angie.cathrae@southbruce
peninsula.com

Please Print

Agent's Name (s): Chris Cornfield
Address: Town of South Bruce Peninsula
PO Box 310, 315 George St
Warton ON N0H 2T0
Telephone Home N/A Work 519-534-1400
Cell N/A Fax 519-534-4976
e-mail chris.cornfield@southbruce
peninsula.com

Have you applied to other Agencies regarding this project?

No ☐ If Yes, please indicate which: MNR ☒ MOE ☐ NEC ☐ DFO ☐ Other ☐
(please specify)

Location of Proposed Works

Municipality Town of South Bruce Peninsula Former Municipality Amabel
Lot Concession
Street Address Lakeshore Blvd N Sauble Beach
Registered Plan Number (if applicable) Lot Number
Assessment Roll Number

Application is hereby made to:

☐ Construct/Reconstruct a building or structure

☐ Alter, Expand, Renovate a Building or Structure

- a) Proposed use of building or structure
b) Floor area of new structure
c) Will structure have a basement () Yes () No
d) Elevation of lowest external opening (window, door, etc.) in relation to existing grade

☒ Place/remove fill or site grading

- a) Type of fill Sand
b) Depth of fill
c) Proposed final grade of land 2% crossfall from Lakeshore Blvd to edge
d) Proposed means of stabilizing fill stone/concrete retaining wall as required
e) Proposed use of land when completed parking to secure dune

☐ Alter a watercourse by constructing a

() Crossing () Pond () Dam () Channel () Bank Protection () Other
Describe proposed work

☐ Alter a Wetland - Describe proposed work

☐ Alter a Shoreline - Describe proposed work

Proposed Start Date Sept 15, 2020 Proposed Completion Date Sept 15, 2021

Continued on Next Page

APPLICATION FOR PERMISSION – Page 2
Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation
Ontario Regulation 151/06

Application #

This application **MUST** be accompanied by two (2) copies of a site plan showing:

1. Subject property dimensions.
2. Adjacent roads, watercourses, land forms (eg. hills) and buildings.
3. Location of proposed fill, with depth of fill and final grade.
4. Location of proposed new structure with elevation, final grade, description of structure, drainage and method of construction.
5. Length of watercourse affected and proposed gradient, side slopes and erosion and sediment control methods.

TERMS AND CONDITIONS

1. Any permission, if granted by Grey Sauble Conservation Authority, will expire two (2) years from the date of issue, unless specified on the permit. No further work will be carried out on the project that is the subject of this application beyond the date of expiry without prior written approval of the extension of the expiry date by Grey Sauble Conservation Authority (renewal fees may apply).
2. Permission granted by Grey Sauble Conservation Authority cannot be transferred without prior written approval by Grey Sauble Conservation (processing fees may apply).
3. Approvals, permits, etc., may be required from other agencies prior to undertaking the work proposed. Grey Sauble Conservation Authority permission, if granted for the proposed work, does not exempt the owner/agent from complying with any or all other approvals, laws, statutes, ordinances, directives, regulations, etc., that may affect the property or the use of same.
4. Should the information provided on or with this application be untrue or incorrect, or become untrue or incorrect, the Grey Sauble Conservation Authority reserves the right to withdraw any permission granted based on the information originally provided. Grey Sauble Conservation Authority may elect to proceed with further action to have the works modified or removed, in whole or in part, at the cost of the applicant.

DECLARATION

I/we certify that I/we will abide by Ontario Regulation 151/06 as may be amended from time to time. I/we agree to allow representatives of Grey Sauble Conservation Authority onto the site of the proposed work so that they may obtain information pertaining to the application and to review the work. I/we further agree to undertake to obtain, at my/our cost, further information, studies, reports, etc., prepared by others, if such is required by Grey Sauble Conservation Authority to properly review the application.

NOTICE TO APPLICANT

Pursuant to bill 49, The Municipal Freedom of Information and Protection of Privacy Act, 1989 and the Conservation Authorities Act, R.S.O. 1990, the principal purposes for which personal information collected on this document is intended to be used is:

- a) In the assessment of proposed works/undertakings relative to Ontario Regulation 151/06 and water related concerns;
- b) For the distribution of information to the applicant relating to programs and projects of Grey Sauble Conservation Authority;
- c) For watershed planning.

The Chief Administrative Officer of Grey Sauble Conservation Authority can answer questions about the collected information.

I/we, the undersigned hereby certify to the best of my/our knowledge and belief that all of the noted and attached information on this **"Application for Permission"** is correct and true. I/We further solemnly declare that I/we have read and fully understand the contents of this application, and specifically the Terms and Conditions, the Declaration and the Notice to Applicant.

Dated this 31st day of August, 2020 at South Bruce Peninsula

Janice Jackson
Owner - Signature

Angela Cathrae
Owner - Signature

Chris Cornfield
Authorized Agent - Signature

Janice Jackson
Owner - Print Name

Angela Cathrae
Owner - Print Name

Chris Cornfield
Authorized Agent - Print Name



Grey Sauble Conservation Authority
R.R.#4, 237897 Inglis Falls Road, Owen Sound, Ontario N4K 5N6
phone 519 376-3076 fax 519 371-0437

**Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation
Ontario Regulation 151/06
FEE SCHEDULE 2019-2020**

When submitting an application, the appropriate fee must be included; otherwise, applications will not be processed. The fee is nonrefundable regardless of the decision reached by Grey Sauble Conservation Authority on the issuance of a permit. **Cheques made payable to: Grey Sauble Conservation Authority**
or Credit Card/Debit Card Payment available by phone

Application for Permission	Work Fee
1. Minor Projects	\$280.00
2. Standard Projects	\$620.00
3. Major Projects	\$1550.00
4. 60 Month Project (requires GSCA Board Approval)	\$3620.00
Permit Replacement (Expired within 1 yr. and no amendments)	\$120.00
Permit Replacement with Amendments (Minor Projects)	\$150.00
Permit Replacement with Amendments (standard Projects)	\$260.00
Permit Replacement with Amendments (Major Projects)	\$520.00
Property Clearance and Inquiry Letters	\$210.00
Property Clearance and Inquiry Letters with Site Inspection	\$320.00

Any project commenced prior to the issuance of a permit will be subject to a fee that is double the regular fee.

Definitions: This is a summary for the guidance of all applicants, Grey Sauble Conservation determines the applicable fee and whether the project is exempt.

1. Standard Projects:

- All projects not defined as minor, major or exempt are Standard Projects.

2. Minor Projects:

- Buildings and structures with floor area equal to or less than 50 metres² (538 ft²)
- Fill (including placing, removal or re-grading) where the total quantity is equal to or less than 100 metres³ (130.8 yards³)
- Retaining walls where slope stability is not a concern
- Fences within a floodplain or dynamic beach
- Decks and patios greater than 10 metres² (107.6 feet²) in floor area that are not enclosed or roofed and not located in a hazard area
- Docks
- Pools and associated minor site alterations
- Shore wells and associated site alterations excluding in water works
- Clean-out of existing ponds (location of disposal of dredged material must be indicated and may trigger additional permits) where pond size does not increase.

Minor Projects (continued):

- Clean-out of channels less than 100 metres in length completed while the channel is dry, provided the dimensions of the channel do not exceed the original “as constructed” channel
- Watercourse crossing where the existing stream channel width is equal to or less than 3.0 metres (9.8 feet) and the watercourse is dry at the time of construction
- Maintenance and repair to existing on-stream structures provided the use and dimensions remain substantially the same
- Stream bank or inland lake shoreline works that are equal to or less than 20 metres (65.6 feet) in total length
- Site alteration for the installation of a septic system
- Repairs or replacement of Great Lakes shoreline protection works within the same footprint.

2. Major Projects:

- All non-residential buildings (commercial, industrial, institutional) greater than 500 metres² (5380 feet²) in floor area
- Filling (including placing, removal or re-grading) where the total quantity is more than 1500 metres³ (1962 yards³)
- Ponds, dams, watercourse crossings where the existing stream channel width is greater than 10 metres (33 feet)
- New stream bank and channel works that exceed 100 metres (328 feet) in length
- Retaining walls or similar structures where there is potential for slope instability.

Exempt Projects:

- Non-habitable buildings or structures equal to or less than 10 metres² (107.6 feet²) in floor area provided they are not located in a hazard area.
- Fill quantities (including placing, removal or re-grading) equal to or less than 10 metres³ (13 yards³) where the work is completed in one calendar year, is not an ongoing project, is not located on a steep slope and will not restrict the flow of water.
- Fences not within a floodplain or dynamic beach.
- Septic system replacements being replaced in the same general location and size and not within a hazard area with no change to existing drainage patterns.
- New or replacement municipal/private water line and/or municipal/private sewer hook-up, telephone/cable/electrical/natural gas installations provided it does not cross a watercourse, wetland or steep slope and maintains existing drainage and grading patterns.
- Demolition of an existing building provided there are no changes in grade.
- Repairs and/or replacement of a foundation provided the building foot print is not increased and changes in grade remain the same and the structure is not within a flood or erosion hazard area.
- Landscape works that do not change the grade or drainage.
- Works within the waters of Lake Huron, Georgian Bay or inland lakes that require a permit from the Ministry of Natural Resources and Forestry under the Public Lands Act.
- Works that are required to protect municipal infrastructure in the case of a flood or erosion emergency. (Consultation is required with the GSCA prior to completing the work).
- Interim remedial works required immediately to protect a privately owned dwelling from additional wave uprush and other water related hazards due to a flood and erosion emergency. (Consultation is required with the GSCA prior to completing the work).

The works proposed are to remove the sand/vegetation from the roadside along the length of Lakeshore Blvd N in order to reclaim original parking platform space for cars to park. The creep of the dunes and vegetation has resulted in a health and safety situation. Cars cannot fully park without encroaching on the travelled portion of Lakeshore Blvd N. In areas where the vehicles can park, there typically isn't enough room for pedestrians to walk behind the vehicles and there isn't enough room for patrons to remove items from the rear of their vehicles.

We plan to remove only that amount which would re-create the parking stalls. No all areas of Lakeshore Blvd N will require this work but it is anticipated that it will be in all areas (as required beginning at the first Beach entrance closest to the Crowd Inn and continuing to the intersection of Lakeshore Blvd N and Sauble Falls Rd. As budget will allow, the Town will secure any future dune erosion by constructing a retaining wall with precast concrete blocks or large quarry armor stone. The height of the retaining wall will be respective to the height of the dunes.

We have consulted with the MECP who take no issue with our proposal. See below.

From: Ecclestone, Susan (MECP) <Susan.Ecclestone@ontario.ca>
Sent: Friday, August 28, 2020 12:21 PM
To: Angie Cathrae <angie.cathrae@southbrucepeninsula.com>
Cc: Janice Jackson <janice.jackson@southbrucepeninsula.com>; Jay Kirkland <jay.kirkland@southbrucepeninsula.com>; Heeney, Paul (MECP) <Paul.Heeney@ontario.ca>; Boucher, Nikki (MECP) <Nikki.Boucher@ontario.ca>; Hann, Carolyn (MECP) <Carolyn.Hann@ontario.ca>
Subject: South Bruce Peninsula Safety Issue Along Lakeshore Blvd N

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Angie,

Thank you for your email.

From the perspective of species at risk, while we know Piping Plover nest on beaches associated with dunes and make use of foredune and dune habitat to carry out their life processes, the back area of the dune where the cars parks is dense with vegetation and not typically an area used by the Piping Plover. In general, as long as the work does not compromise the integrity of the dune ecosystem as a whole and habitat that is necessary to support the life processes for Piping Plover is not impacted, MECP has no concerns from the perspective of the Endangered Species Act. If the Town is of the opinion that the integrity of the dune ecosystem or any habitat that the Piping Plover rely on the carry out their life processes would be impacted, MECP requires further details on the proposed activity in order to provide advice.

The timeframe you propose is an appropriate one for completing this type of work as there are no active Piping Plovers in the area.

We recommend that you reach out to the Lake Huron Centre for Coastal Conservation for direction on how to complete this work to limit impacts to this sensitive ecosystem and so that the area remains stabilized and doesn't create further issue once work is completed.

As mentioned to the Town's CAO in the past, the Town should ensure they have consulted with all other agencies that would regulate activities in dune habitat and have any permits from those agencies that are required in place prior to starting any work that might impact the dune ecosystem at Sauble Beach.

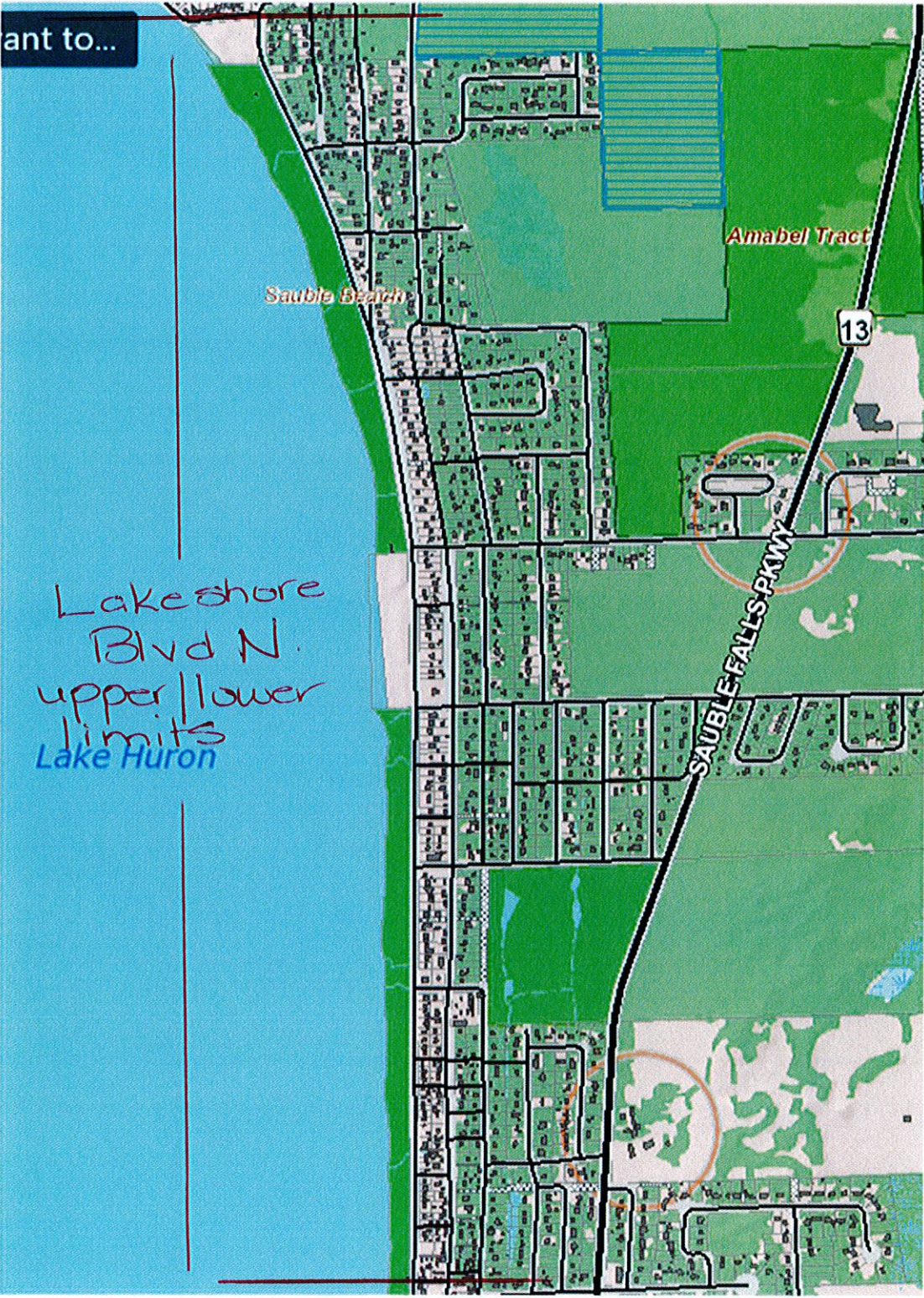
I hope this is helpful. Please let us know if we can be of further assistance.

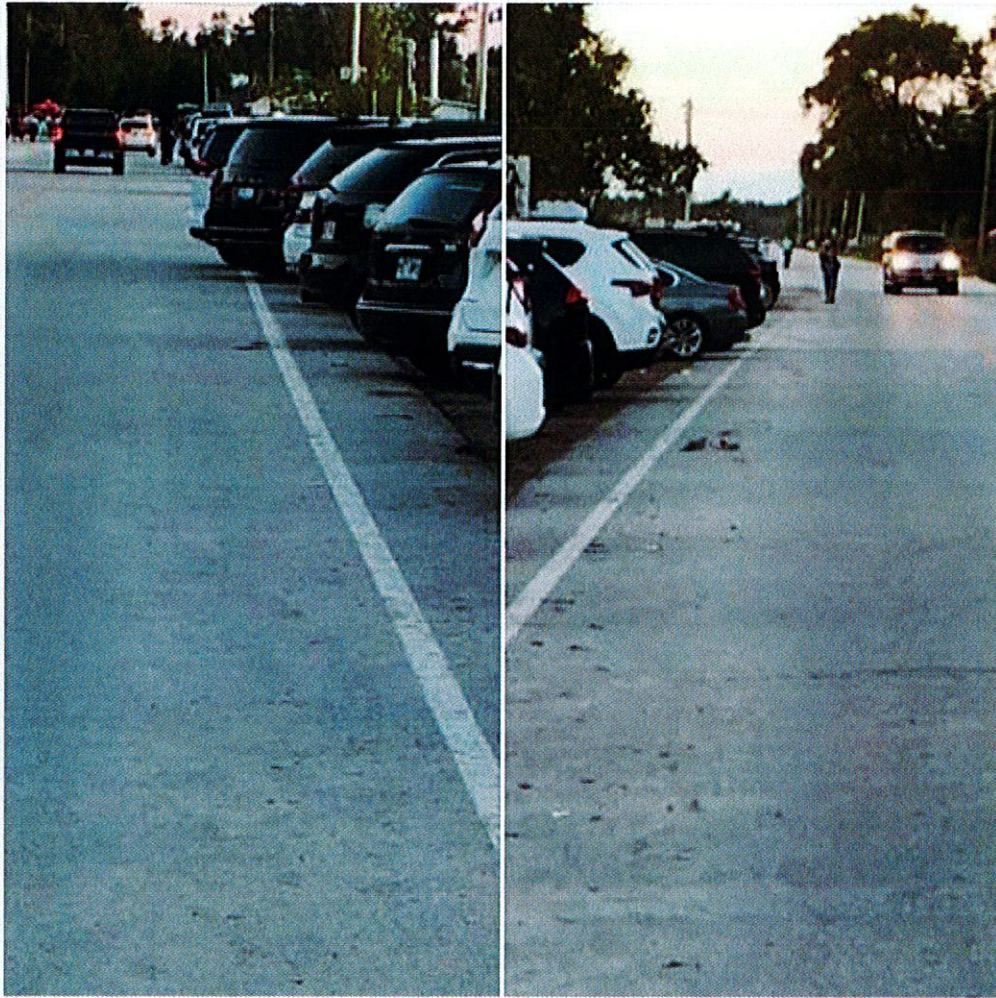
Susan.

Public Works proposes to remove the sand which has possible salt contamination and take it to the Landfill Site for interim cover material, unless the Conservation Authority requests that it be replaced on the beach in which case, we would consult with your organization in this regard. Time is of the essence to complete this project as we are sensitive to the Piping Plover nesting season.

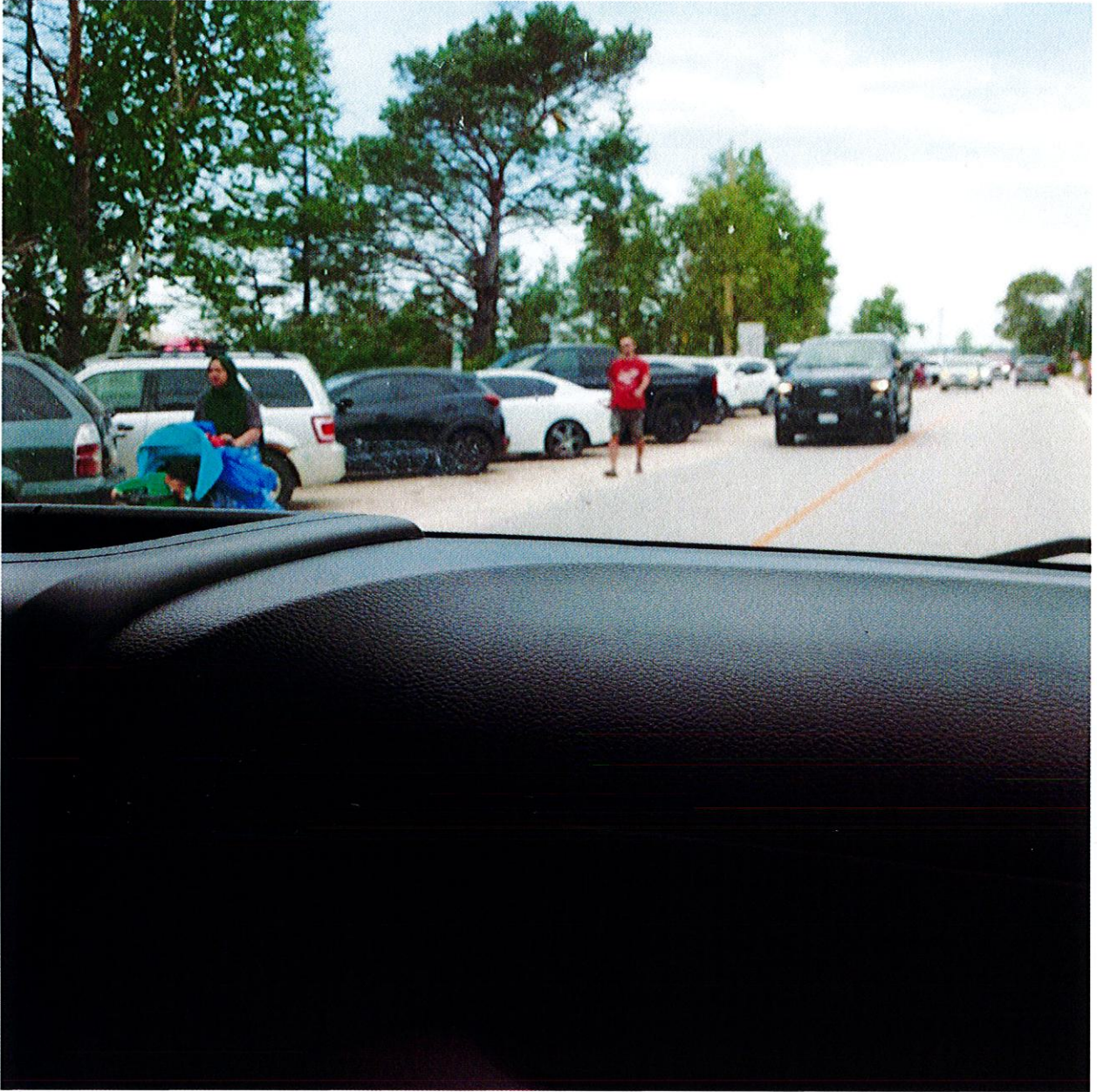
Please refer any questions to Chris Cornfield.

ant to...









SEGMENTAL RETAINING WALL STRUCTURAL NOTES:

1.

ALL BLOCKS SHALL BE PRECAST CONCRETE BLOCKS AS MANUFACTURED BY REDI-ROCK.
2.

BEFORE PROCEEDING WITH WORK, CHECK ALL THE DIMENSIONS SHOWN ON THE DRAWINGS AND REPORT ANY DISCREPANCIES TO THE ENGINEER.
3.

STRUCTURAL DESIGN HAS BEEN COMPLETED IN ACCORDANCE WITH DIV. B, PART 4 OF THE 2012 ONTARIO BUILDING CODE.
4.

PLACE RETAINING WALL ON COMPETENT NATIVE SOIL CAPABLE OF SUSTAINING AN ALLOWABLE SOIL BEARING CAPACITY OF 100 kPa (2000 psf).
5.

UPON EXCAVATION AND PRIOR TO PLACING WALL, ALL DESIGN INFORMATION INDICATED SHALL BE VERIFIED BY AN ENGINEER TO ENSURE ASSUMED SOIL CONDITIONS ARE MET OR EXCEEDED.
6.

PLACE GEOTEXTILE BEHIND WALL PRIOR TO BACKFILLING WITH DUNE SAND.
7.

RETAINING WALL TO BE CONSTRUCTED IN A RUNNING BOND PATTERN (IE. STAGGER JOINTS).
8.

DESIGN INFORMATION:

UNIT WEIGHT OF SCIL, γ :

UNIT WEIGHT OF CONCRETE BLOCK, γ :

SURCHARGE LOAD:

SOIL FRICTION ANGLE, ϕ :

COULOMB ACTIVE EARTH PRESSURE, K_a :

16.5 kN/m³ (pcf)

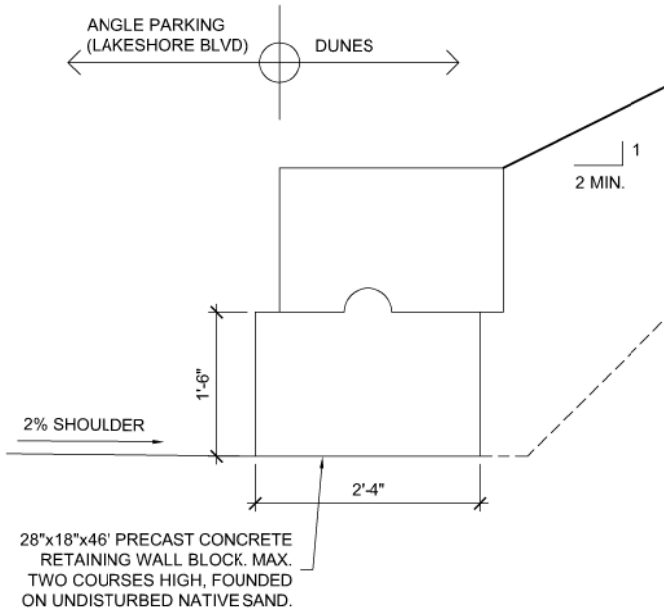
24 kN/m³ (pcf)

Not Considered

30°

0.494
9.

LAYOUT OF WALL BY OTHERS.



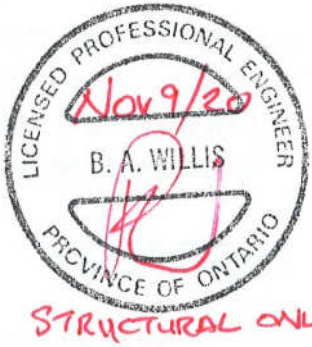
RETAINING WALL SECTION
SCALE: 1/2"=1'-0"



SAUBLE BEACH, ONT.
KEY PLAN
SCALE: N.T.S.

GMBP FILE:220359 Sauble Retaining Wall-C.dwg LAYOUT:(1)
LAST SAVED: 11/9/2020 5:37:59 PM PLOTTED: 11/9/2020 5:38:22 PM

1	NOV 9, 2020	ISSUED FOR REVIEW	B.A.W.
NO.	DATE	REVISION DESCRIPTION	CH'KD



RETAINING WALL
LAKESHORE BLVD, SAUBLE BEACH
TOWN OF SOUTH BRUCE PENINSULA
NOTES AND SECTION



DRAWN BY : C.B.	APPROVED BY : B.A.W.	PROJECT NO. : 220359	DRAWING NO. : 1
DESIGNED BY : B.A.W.	DATE : NOV. 9, 2020	SCALE : 1/2"=1'-0"	







Grey Sauble Authority Board of Directors

M O T I O N

DATE: November 17, 2020

MOTION #: FA-20-083

MOVED BY: _____

SECONDED BY: _____

THAT the board of directors authorize an exception to policy 8.6.8 to allow the issuance of permit GS20-363 for the installation of a retaining wall in accordance with the submitted application and engineered plan.