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Information to Assist Applicants for Development on Properties located within the Southeast Leamington Lake Erie Floodprone Area (Polders) between Hillman Marsh, Sturgeon Creek and Point Pelee National Park:

In order to undertake new development (construct a new building, major building addition/renovation or building reconstruction) within a hazard zone in the Province of Ontario, all Provincial and local Conservation Authority policies for new development within hazard lands must be satisfied. The Conservation Authority guidelines and policies are consistent with the following Provincial policies:

- Development and site alteration is carried out in accordance with floodproofing standards, protection works standards/erosion standards, and access standards
- Vehicles and people have a way of safely entering and exiting the area during times of flooding, erosion and other emergencies
- New hazards are not created and existing hazards are not aggravated
- No adverse environmental impacts will result.

The Southeast Leamington Polders area is located within the floodplain of Lake Erie. Flood protection for this area is provided by existing municipal drainage schemes that include dykes, drainage canals and pump stations. In May of 2004, the dykes protecting this area sustained substantial damage as a result of a large rainfall event. Following this rainfall event, the Municipality of Leamington engaged Todgham and Case Associates Ltd. (Todgham) to investigate the damaged dykes and to provide repair recommendations. The findings of the Todgham studies confirmed that the existing flood protection dykes were substantially damaged during the May 2004 flood event and provided preliminary recommendations on the minimum extent of works to repair the dykes to the pre May 2004 condition. Since that time, the condition of the municipal infrastructure (dykes and roads) have not been maintained or repaired and some of the roads which would provide safe access to area residents during times of lake flooding have been closed or partially closed.

As with all proposed development in hazard lands, an application for new development must satisfy the following items:

1. Flood Hazard - The submission must identify how the development is being floodproofed. Without adequate flood protection from Lake Erie (i.e. flood protection dykes satisfying minimum provincial standards), the lowest opening into a new structure must be at or above the minimum Lake Erie floodproofing elevations.
2. Erosion Hazard – Flood protection for this area is provided by earth dykes and armour stone breakwalls. These structures are subject to erosion which leads to slope instability and related structural integrity issues. These protection structures, and the long term stability of same, must provide for 100 years of protection for new development.

3. Access Standard - The submission must identify how safe access to and from the site during times of flooding, erosion or other emergencies is being addressed. Safe access is prescribed by the ability of a vehicle and or a pedestrian to pass through the flooded area without peril. There are Provincial and Conservation Authority policies/guidelines for depth of water and flow velocity related to safe access. In addition, the impact of the potential flood on the dyke or road structure must be considered. (i.e. roads located on dykes that will be covered by flood waters need to be delineated to identify the location of same during times of flooding).
4. Development Plans - Drawings must be provided including a site plan, drainage plan, building plans, etc.
5. Environmental Issues - The submission must confirm that no new hazards are being created, existing hazards are not being aggravated and that no adverse environmental impacts will result.

Based on the findings of the 2004 Todgham Drainage Scheme Reports and the Baird *Sustainable Management Strategy for Southeast Leamington – Phase 2 Report (April 20, 2007)*, the ability of a proponent to satisfy **all** Provincial and Conservation Authority policies/guidelines for new development within many portions of the Southeast Leamington Polders area may be very challenging for the following reasons:

- The minimum floodproofing elevation for this area varies from approximately 0.0 metres to 4.5 metres above existing ground elevations. Based on the floodproofing requirements, it may not be feasible to construct new development to the minimum floodproofing elevations.
- The flood protection dykes are currently in need of substantial repairs and do not presently meet minimum provincial standards. In addition, the Baird Report identifies that severe down cutting of the Lake Erie nearshore area is occurring along this reach of shoreline and that the shoreline average recession rate is approximately 1.250 metres/year. These findings impact the design life of the flood protection dykes that are required to provide long term protection for this area.
- Vehicles and people must have a way to safely enter and exit during times of flooding, erosion and other emergencies. Many of the existing municipal roads within the Southeast Leamington area do not meet the Provincial and Conservation Authority requirements for safe ingress and egress (access). As noted above, many of the dykes protecting the Polders area were damaged during the May 2004 rain event. Many of the municipal roads that provide access to the interior farmlands are located on top of the drainage scheme dykes. As a result of the 2004 damages to the dykes, the Municipality closed Mersea Road 1 and the north lane of Mersea Road C. In addition, many sections of the other municipal roads in this area (i.e. Road B, Road C, Road D, Road E, Road 19, Kildeer Road) do not satisfy Provincial and Conservation Authority policies for safe ingress and egress (access) during times of flooding.

To make application for permit, a proponent is required to submit a completed application for permit, the application fee and all other



development related plans to the ERCA office at 360 Fairview Avenue West, Suite 311, Essex, Ontario, N8M 1Y6. If the application satisfies all requirements for development within hazard lands, a permit will be issued under Section 28 of the *Conservation Authorities Act*. If the application does not satisfy minimum requirements for development within hazard lands, ERCA administration will not be in a position to recommend approval of same. In these situations, the applicant can request that the application be considered by the ERCA Executive Committee to try and obtain relief from policies requirements. Members of the ERCA Board of Directors are appointed to sit on the ERCA Executive Committee. Hearings are conducted in a quasi-judicial forum. Members of the ERCA Executive Committee are not informed of the applications being considered prior to the hearing. At the hearing, the applicant is asked to present his/her proposal to the ERCA Executive Committee. Applicants can represent themselves or applicants can be represented by others (i.e. engineering consultant, legal representative, etc.). Following the applicant's presentation, the ERCA Technical Staff is asked to respond. The ERCA Technical Staff will advise the ERCA Executive Committee if the application satisfies all related hazard management requirements and may provide a recommendation to the Committee. The ERCA Executive Committee will then make a decision on whether a permit can or cannot be issued for the proposal. In all cases where a hearing is required, the outcome cannot be predetermined. If a proponent does not agree with the decision of the ERCA Executive Committee, the proponent can appeal the decision to the Ontario Mining and Lands Commissioner.

The above information relates to new development proposals that are required to satisfy all Provincial and Conservation Authority guidelines/policies for new development in hazard zones in Southern Ontario. The following activities require a permit or clearance from the Conservation Authority but in general are not required to satisfy all Provincial and Conservation Authority guidelines/policies for new development in hazard zones:

- Detached structures less than 100 ft² (9.29 m²) in size.
- Building additions, up to 50 percent of the size of the original building, provided that the number of dwelling units is not increased and provided that the floodproofing elevation and setback from the watercourse or shoreline is not less than the original building. (Note: Previous additions will be included as part of the 50% calculation)
- Placement and grading of fill.
- Open decks.
- Minor maintenance, repairs, renovations.
- Landscaping.

In addition to the above, the Southeast Leamington area is not serviced by municipal sanitary sewers and, as a result, on-site septic systems are required for new development. Sanitary servicing does not fall under the jurisdiction of the Conservation Authority, however, applications for permit must include a site plan showing the location of the septic envelope so that the related placement and grading of fill can be addressed in the Conservation Authority permit. Minimum floodproofing elevations could impact septic system design. Contact should be made with the Municipality's Building Department to determine all municipal requirements, including septic system requirements. Also, please note that in accordance with Part 8 of the Ontario Building Code



and as confirmed by the Municipal Building Department, holding tanks are not an acceptable method for dealing with sanitary waste for new development.

For site specific information, we encourage proponents to contact ERCA for information regarding flood and erosion issues. Please note, however, that we cannot provide site specific information to a third party without a letter of permission from the current property owner.

Note: The Baird *Sustainable Management Strategy for Southeast Leamington – Phase 2 Report (April 20, 2007)* is available on the ERCA web site by following the instructions below:

<https://essexregionconservation.ca/reports/sustainable-management-strategy-southeast-leamington/>

In addition, information regarding the municipal drainage reports that have been completed in this area should be obtained from the Municipality of Leamington.

Please note that the Municipality of Leamington is currently undertaking additional studies to further assess options for this area. As a result, the Municipality has not selected the recommended option in the Baird report as a move forward course of action at this time.

