West Lincoln
Your Future Naturally

REPORT
COUNCIL

DATE: June 29th, 2020

REPORT NO: PD-078-20

SUBJECT: **Recommendation Report**
Importation of Fill (Mr. and Mrs. Bozich – Schilstra Builders, Agent)
8006 Concession 7 Road, South Grimsby Ward, Township of West Lincoln
File No. 3000-003-20

CONTACT: Brian Treble, Director of Planning and Building

OVERVIEW:

- **On July 12th, 2019, a building permit was issued for a new house at 8006 Concession 7 Road, South Grimsby. A location map is found at attachment 1 to this report.**
- **As part of the building permit package, a site sketch was provided as completed by Rasch & Hyde and dated June 19, 2019 and as found at attachment 2 to this report.**
- **The elevation of the residence was shown as approximately 1 metre above the existing grade.**
- **On this basis, as the house was nearing completion, Schilstra Builders commenced the importing of fill, without approval. Fifty loads are permitted as part of a building permit.**
- **Complaints started to be received around March 25th, 2020 about truck traffic, dust, and mud on the road, as well as about the volume of fill being hauled in.**
- **Upon inspection, staff determined that well in excess of 250 truckloads (2500m^3) of soil had been imported. Under the site alteration by-law, only 500m^3 (50 truckloads) is permitted when tied to a building permit.**
- **The site sketch tied to the building permit provides no detail or evidence of proposed grading and the Building Code only requires proper slopes for water flow away from the foundation.**
- **This site alteration application is therefore to recognize the already imported soil in excess of the by-law, as well as to request the further importation of another 500m^3 (50 truckloads) to complete the planned grading change and then to import topsoil. The by-law allows up to 1000m^3 (100 truckloads) of topsoil. It must however be true topsoil.**

RECOMMENDATION

1. That, Report PD-078-20, regarding "Recommendation Report, Importation of Fill (Mr. and Mrs. Bozich – Schilstra Builders, Agent), 8006 Concession 7 Road, South Grimsby Ward, Township of West Lincoln", dated June 29th, 2020, be RECEIVED; and,

2. That, importing up to 500m^3 of additional soil for a total, not exceeding, 3000m^3 (300 truckloads) be permitted, provided that the following conditions are met:

    a. That the site is properly graded and topsoil applied in such a manner that the lands can be properly maintained and will adequately grow crop, hay or lawn (as planned).
    b. That the site sketch that was submitted with the application be updated to show finished elevation.
    c. In order to ensure completion of this project, that a $5000.00 security deposit and a site alteration agreement be signed.
    d. That a penalty be imposed such that another non-refundable $1000.00 be paid as a double permit fee.
    e. That a permit such as the one found at attachment 3 to this report be issued following the completion of the conditions above; and,

3. That open roadside ditches be maintained and entrance permits be approved to the satisfaction of the Township of West Lincoln Public Works Department.

4. That any requirements of the Niagara Peninsula Conservation Authority (NPCA) must be complied with.

5. That a by-law be passed to authorize the Mayor and Clerk to enter into an agreement with John and Leeanne Bozich (Schilstra Builders – Agent).

ALIGNMENT TO STRATEGIC PLAN

Theme

- **Efficient, Fiscally Responsible Operations**

BACKGROUND

On July 12th, 2019 a building permit was issued for a new residence at 8006 Concession 7 Road. The site sketch shows an elevation of the house that is 1 metre above the existing grade. The Building Code only requires that the soil be graded so that water flows away from the foundation. The grading plan showed no further detail on intended final grades.

In March of 2020, soil importation began and complaints also started to be received by the Township. Upon inspection, grade had been changed dramatically with more than 250 truckloads already having been delivered to the site. The truck drivers were aggressive and the trucking company did not follow the instruction of the By-law

Enforcement Officer to cease soil delivery immediately.

Ultimately, the builder was contacted to shut the company down due to non-compliance with the site alteration by-law.

CURRENT SITUATION

Builders need to understand that a building permit is not free reign to do what they want with the elevation of the land. Grading and drainage plans should be prepared before such work begins.

The Site Alteration By-law 2016-41 was amended in 2019 to allow only 50 truckloads ($500m^3$) of fill tied to a building permit. This amendment was made because of complaints of 5 houses that were constructed in 2018 and 2019 with substantial elevation changes and substantial soil importation, far beyond anything required as part of a normal building permit.

This new 50 load limit will be enforced and builders must abide by this new rule. In this file there is no plan, there was no indication provided to the Township of the grading change that was contemplated. Perhaps this is an effort by some builders to accept payment for the receiving of soil from the soil haulers. The works at 8006 Concession 7 Road were a complete violation of the site alteration by-law, well beyond the normal amount of fill required for a building permit, with no final grading plan. These types of situations must come to an end.

Beyond 50 truckloads ($500m^3$) of soil, the intent of the site alteration by-law is that these lands must be improved for agricultural purposes, as part of any site alteration permit, this is not the plan, or the intent in this case. Therefore, it is a violation of the Site Alteration By-law.

Two options exist:

1. Either the soil be removed such that the maximum permitted volume of $500m^3$ (50 truckloads) be enforced; or,
2. that an additional $500m^3$ (50 truckloads) of fill (total of $3000m^3$ (300 truckloads) and up to $1000m^3$ of topsoil (true topsoil) be permitted such that the builders vision is completed, with conditions met, including a penalty of a double permit fee.

Staff are prepared to accept option 2 in this case since this is the builders first violation. Should Council concur; the builder is hereby put on notice that no further violations will be supported. Permit applications for new houses now contain a clause that a maximum of 50 loads of imported soil is permitted.

FINANCIAL IMPLICATIONS

Not applicable as security will be collected to finish the project, unless option 1 is chosen and the recommendations of this report are not supported. At that point this will

become a by-law matter with enforcement costs.

INTER-DEPARTMENTAL COMMENTS
Staff from the Planning, Building, By-law and Public Works Departments have all been involved in this file. When the trucking company was ignoring the orders of the By-law Enforcement Officer, the Township, with the assistance of Public Works staff, was prepared to close the road. It should never have to come to that point.

Notice was circulated to agencies on June 1st, 2020. The NPCA has commented about a possible interest in two mapped water features that should be buffered and protected.

PUBLIC COMMENTS
No comments have been received from the neighbours as part of this notice process. Notice was circulated to the public on June 1st, 2020. Complaints were received from the public before the site alteration permit application was submitted.

CONCLUSION
Staff recommend approval as outlined in this report, based on an understanding that this is a one-time exception and that further breaches of the site alteration by-law by this builder and all other builders will not be tolerated.

ATTACHMENTS
1. Location Map
2. Site Sketch – Rasch & Hyde Ltd.
3. Draft Permit
4. Agency Comments
5. Draft Authorizing By-law

Prepared by:

Brian Treble, RPP, MCIP
Director of Planning and Building

Approved By:

Beverly Hendry
CAO

X:\pb-Planning Reports\Working Copy\2020\6. June\PD-078-20 Site Alteration - Bozich - Schilstra Builders\PD-078-20 - Site Alteration - 8006 COncession 7 - Bozich - Schilstra Builders.docx

Location Map

8006 Concession 7 Road

May 2020

West Lincoln
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0 65 130 260 Meters

Document Path: X:\wl-GIS\2. Location-Report Mapping\8006 Con 7 Rd.mxd

SURVEYOR'S SEAL

SKETCH

THIS IS AN ORIGINAL COPY IF EMBOSSED BY THE SURVEYOR'S SEAL, OR PDF CERTIFIED

SKETCH SHOWING TOPOGRAPHICAL INFORMATION AND SITE PLAN FOR CONSTRUCTION OF NEW HOUSE

TOWNSHIP OF WEST LINCOLN

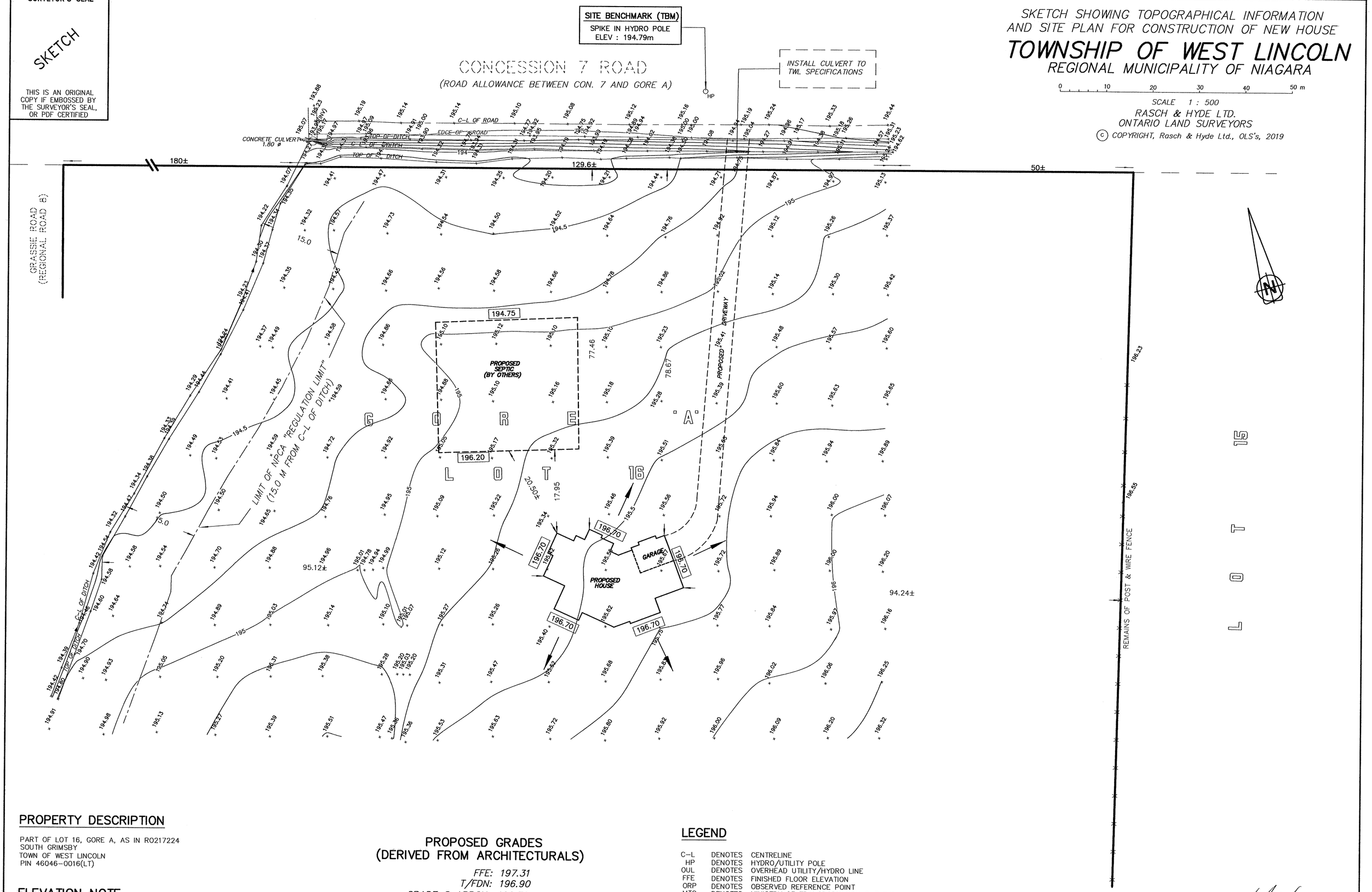
REGIONAL MUNICIPALITY OF NIAGARA

0 10 20 30 40 50 m

SCALE 1 : 500

RASCH & HYDE LTD.
ONTARIO LAND SURVEYORS

© COPYRIGHT, Rasch & Hyde Ltd., OLS's, 2019



PROPERTY DESCRIPTION

PART OF LOT 16, GORE A, AS IN RO217224
SOUTH GRIMSBY
TOWN OF WEST LINCOLN
PIN 46046-0016(LT)

ELEVATION NOTE

ELEVATIONS ARE GEODETIC, DERIVED BY GPS OBSERVATIONS, REFERRED TO MTO BENCHMARK 00819708339 (AKA 339-70) HAVING AN ELEVATION OF 194.755m (CGVD-1928:1978)

LOCATION : METAL CLAD BARN (OWNED BY MR. S. GRZYBEK) ON NORTH SIDE OF HWY 20, 4.9 KM EAST OF JCT OF HWY 20 AND SOUTH GRIMSBY RD 18 IN THE HAMLET OF FULTON, 6.6 KM WEST OF UNITED CHURCH IN THE HAMLET OF SMITHVILLE, 121.9 M WEST OF SOUTH GRIMSBY RD 11 AND 8, 1.4 M NORTH OF CENTRELINE OF HWY 20. TABLET IS SET HORIZONTALLY IN SOUTH FACE OF CONCRETE FOUNDATION, 5.58 M WEST OF S.E. CORNER, 37 CM EAST

ALL FUTURE GRADE WORK ON SITE TO BE BASED ON SITE BENCHMARK. ANY ELEVATION DISCREPANCIES TO BE REPORTED TO RASCH & HYDE LTD.

PROPOSED GRADES (DERIVED FROM ARCHITECTURALS)

FFE: 197.31
T/FDN: 196.90
GRADE @ APRON: 196.70
BASEMENT SLAB: 194.28
U/S FTG: 194.00

CAUTION

1. THIS IS NOT A PLAN OF SURVEY AND SHALL NOT BE USED EXCEPT FOR THE PURPOSES INDICATED IN THE TITLE BLOCK.
2. THIS SKETCH IS PROTECTED BY COPYRIGHT ©
3. THIS IS NOT AN ORIGINAL COPY UNLESS EMBOSSED WITH THE SURVEYOR'S SEAL, OR PDF CERTIFIED.

LEGEND

C-L	DENOTES	CENTRELINE
HP	DENOTES	HYDRO/UTILITY POLE
OUL	DENOTES	OVERHEAD UTILITY/HYDRO LINE
FFE	DENOTES	FINISHED FLOOR ELEVATION
ORP	DENOTES	OBSERVED REFERENCE POINT
MTO	DENOTES	MINISTRY OF TRANSPORTATION ONTARIO
(INV)	DENOTES	INVERT OF CULVERT
TWL	DENOTES	TOWNSHIP OF WEST LINCOLN
TBM	DENOTES	TEMPORARY BENCHMARK
NPCA	DENOTES	NIAGARA PENINSULA CONSERVATION AUTHORITY
+100.00	DENOTES	EXISTING GROUND ELEVATION
100.00	DENOTES	PROPOSED FINISHED GRADE
——	DENOTES	PROPOSED SURFACE RUN-OFF

METRIC NOTE

DISTANCES AND ELEVATIONS COORDINATES SHOWN ON THIS SKETCH ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

FIELD WORK COMPLETED: APRIL 30, 2019
REVISED: JUNE 19, 2019
DATE

HAROLD D. HYDE
ONTARIO LAND SURVEYOR

RASCH + HYDE LTD.
Ontario Land Surveyors

P.O. Box 6, 1333 Highway #3 East, Unit B
DUNNVILLE, ONT, N1A 2X1
905-774-7188
(FAX 905-774-4000)

P.O. Box 550, 74 Jarvis Street
FORT ERIE, ONT, L2A 5Y1
905-871-9757
(FAX 905-871-9748)

HAROLD D. HYDE O.L.S.

SCALE 1 : 500	FILE NAME : 19-105	DRWN BY : J.H.

TOWNSHIP OF WEST LINCOLN
SITE ALTERATION PERMIT

Site Alteration Permit No.: 004-2020 Date: 2020/06/30 (YY/MM/DD)

Permit Fee: $1000.00 + penalty Security: $5000.00

Address of Site: 8006 Concession 7 Road, Pt Lot 16, Conc Gore A

Name of Owner: John and Leeanne Bozich

Name of Builder: Schilstra Builders Inc.

Nature of Approval: To retroactively approve the importation of upwards of 2500m^3 (250 truckloads) of fill by Schilstra Builders Inc. to the above mentioned site and to further approve the additional importation of 500m^3 (50 truckloads) of fill and up to 1000m^3 (100 truckloads) of true topsoil to complete the project.

The undersigned has applied for a Site Alteration Permit pursuant to the provisions of the Township of West Lincoln, By-law 2016-41, as amended.

The permit is valid until **June 30, 2021**.

Pursuant to the Site Alteration By-law, the undersigned hereby acknowledges that the sole responsibility for the completion of the work undertaken as part of this application including compliance with any conditions rests entirely with the Owner and/or Applicant.

The undersigned certifies to the Township that any and all Fill used in completing the Site Alteration contains no contaminants within the meaning of the Environmental Protection Act, R.S.O. 1990, c.E. 19. The undersigned hereby releases and agrees to indemnify and save harmless the Township, its employees, representatives, agents and contractors, from and against all claims, demands, damages, causes of action, costs, expenses and other liabilities of any nature, which may arise in the event that the Fill is determined to contain contaminants.

The undersigned also agrees that the total costs of all works will be entirely the responsibility of the Owner.

_____ _____
Signature of Owner/Applicant Township of West Lincoln Approval

_____
Date of Approval (YY/MM/DD)

Conditions:

1. Ground to be final grading such that overland flow to all Municipal Drains and natural swales is not impeded. At direction of the Township of West Lincoln and the Niagara Peninsula Conservation Authority, this may be required to involve an expert in drainage to ensure that there is no impact to overland flow. NPCA approval may be required and is the applicants responsibility.
2. That no more than 500m^3 of additional fill be imported to this site (total 3000m^3).
3. That no more than 1000m^3 of true topsoil be imported to this site.
4. That the site sketch provided with the building permit be updated to show the final elevation of the lands located at 8006 Concession 7.
5. That a $1000.00 penalty, as a double permit fee be paid.
6. All other provisions of By-law 2016-41, (as amended) are applicable.
7. That all works are completed in accordance with the Township of West Lincoln Municipal Engineering Standards and NPCA Regulations, if applicable.
8. That Schilstra Builders Inc. be and are hereby required to comply with the Site Alteration By-law 2016-41, as amended; and that further infractions in the Township of West Lincoln in relation to a building permit (or otherwise) will not be supported.

The personal information on this form is collected under the authority of Section 11 of the Municipal Act, as amended. The information is used for the purpose of processing this application and

DRAFT

administering the By-law. Questions regarding the collection of this information should be directed to the Township Clerk at jscime@westlincoln.ca.

DRAFT

From: Madison Hill
To: Jeni Fisher
Subject: RE: Notice - Bozich - Schilstra - Site Alteration - File No. 3000-003-20
Date: June-22-20 3:34:07 PM
Attachments: 3A0EE919BBD44D40BAD3041C50D48585.jpg
E335A2534A3F49E09C67A35A9F811D63.png
84941B3E592B47FAA3E19E4127E5A3BB.png
54C6DC58A01141D1A5E8AE2E0D72B0A3.png

Good afternoon Jeni,
The watercourse to the west, and a small portion of the watercourse to the north of the proposed site alteration are identified as potential unmapped wetland (MAX). While the proposal states that the majority of the site alteration has already been completed I have the following comments to minimize impacts on ecological function of the surrounding watercourses:
Appropriate erosion and sedimentation control measures should be implemented to minimize potential impact to the watercourses to the west and north of the development.
Timing of grading activities during the summer months shall avoid high runoff volumes.
Vegetative cover shall be restored in all areas of disturbed ground within the development area as soon as feasible to limit potential sediment sources.
NPCA policy requires a 10 m natural buffer for watercourses containing intermittent flow, warmwater systems or general/impacts aquatic or riparian habitat, but also provides opportunity to reduce the requirement to address existing conditions. Given the adjacent land use is agricultural and a 10 m buffer has not been maintained historically a minimum 5 m vegetated buffer should be maintained to prevent erosion of the banks and impediment of ecological function. This buffer should retain existing vegetation and/or be seeded with native grasses and wetland tolerant species to promote infiltration within the drainage channels and to further promote water quality restoration.
Furthermore, formal review and approval in the form a permit will be required for this work.
Thanks,

Madison Hill
Regulations Officer
Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road West, 3rd Floor | Welland, ON L3C 3W2
Tel: 905-788-3135 | extension 266
mhill@npca.ca
www.npca.ca

Thank you for your email. Due to the COVID-19 pandemic, the NPCA has taken measures to protect staff and public while providing continuity of services. NPCA enforcement, permitting and planning functions are continuing to operate, however there may be delays in receiving responses to inquiries or complaints due to staff restrictions and remote work locations. Updates with regards to NPCA operations and activities can be found on our website at www.npca.ca/our-voice , the NPCA Facebook page at https://www.facebook.com/NPCAOntario and on Twitter at https://twitter.com/NPCA_Ontario .
For more information on Permits, Planning and Forestry please go to the Permits & Planning webpage at https://npca.ca/administration/permits
For mapping on features regulated by the NPCA please go to our GIS webpage at https://gis-npca-camaps.opendata.arcgis.com/ and utilize our Watershed Explorer App or GIS viewer.
To send NPCA staff information regarding a potential violation of Ontario Regulation 155/06 please

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

BY-LAW NO. 2020-XX

A BY-LAW TO AUTHORIZE A SITE ALTERATION AGREEMENT BETWEEN THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN AND JOHN AND LEEANNE BOZICH (SCHILSTRA BUILDERS INC, AGENT) FOR LANDS DESCRIBED AS PART LOT 16, CONC GORE A, IN THE FORMER TOWNSHIP OF SOUTH GRIMSBY, NOW IN THE TOWNSHIP OF WEST LINCOLN BEING 8006 CONCESSION 7 ROAD.

WHEREAS the Corporation of the Township of West Lincoln deems it expedient to enter into a Site Plan Agreement with John and Leeanne Bozich (Schilstra Builders Inc, Agent) for lands legally described as Part Lot 16, Conc Gore A, in the former Township of South Grimsby, now in the Township of West Lincoln being 8006 Concession 7 Road;

AND WHEREAS approval and authority for such Agreement is required;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN HEREBY enacts as follows:

1. THAT the Council of the Corporation of the Township of West Lincoln enter into a Site Alteration Agreement with John and Leeanne Bozich (Schilstra Builders Inc, Agent), on the Lands described as Part Lot 16, Conc Gore A, in the former Township of South Grimsby, now in the Township of West Lincoln, being 8006 Concession 7 Road.

2. That the Mayor and Clerk be and each of them is hereby authorized to sign the said Site Alteration Agreement and any other document or documents necessary to implement the intent of this By-law and the said Site Alteration Agreement, and the Clerk is hereby authorized to affix the Corporate Seal thereto and deliver the same to the appropriate parties.

3. That a copy of the said Site Alteration Agreement and any supplementary Agreements, when executed by the said parties shall be attached hereto as “Schedule A”, and shall form part of this By-law, upon registration on title.

DRAFT

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 29TH DAY OF JUNE, 2020.

_____

MAYOR DAVE BYLSMA

_____

JOANNE SCIME, CLERK