



The Corporation of the Town of LaSalle

Date:	August 2, 2017	Report No:	DS-43-2017
Directed To:	Mayor and Members of Council	Attachments:	Figures 1 to 4, and correspondence dated March 28, 2017, July 20 th and July 31 st 2017
Department:	Development & Strategic Initiatives		
Prepared By:	L. Silani, M.Pl., MCIP, RPP Director of Development & Strategic Initiatives A. Burgess, MCIP, RPP Supervisor of Planning & Development Services	Policy References:	Approved Official Plan
Subject:	<u>Application:</u> Rezoning and Site Plan Control Applications <u>Our File No.:</u> Z-03-2017 & SPC-02-2017 <u>Registered Owner & Applicant:</u> Tuscany Oaks Ltd. <u>Agent:</u> Dillon Consulting Limited, Karl Tanner <u>Location:</u> 0.8 hectares of land located along the west side of Malden Road, between Rosati Drive and Bouffard Road (Malden Planning District)		

RECOMMENDATION:

Based on the information provided within this Staff Report, and subject to further input from Council and the public, it is recommended that Council defer making a decision with respect to this rezoning application until such time that:

- the additional information, as identified in this Staff Report is submitted by the Applicant; and

- a subsequent Staff Report is prepared and brought back to Council with Staff recommendations.

REPORT:

PURPOSE AND NATURE OF THE SUBJECT APPLICATION:

An Application has been received, requesting the rezoning of approximately 0.8 hectares of property located along the west side of Malden Road, between Rosati Drive and Bouffard Road (see Figure 1), from a Neighbourhood Commercial Holding Zone – “C1(h)” to a site-specific Neighbourhood Commercial (C1-9) Zone – “C1-9”. This new zone category will add Commercial Storage, Studio Space, Automobile Repair Garage, and Builders or Contractors Establishments to the list of permitted uses at this location. A total of 22,000 square feet (2,100 square metres) of new commercial floor space is being proposed for this location. New site-specific lot and yard regulations will be established for this site as part of the new “C1-9” Zone.

Figure 2 depicts the existing zoning on the subject lands and on surrounding properties.

Preliminary site plan and site servicing plan drawings have been prepared by the Applicant's Engineering/Planning Consultants (dated May 26, 2017 and July 12, 2017), and are attached as Figures 3 and 4.

Site Plan Control will apply to this site, and will be used to address site details such as on-site parking, fencing, landscaping, lighting, access, signage, storm water management and all other site details.

OFFICIAL PLAN AND PROVINCIAL POLICY STATEMENT CONSIDERATIONS

The Planning Act requires that all zoning by-laws and all zoning by-law amendments adopted by Council conform with the land use designations and policies contained within the municipal approved Official Plan documents (both the lower-tier and upper-tier plans) that are in effect at the time that an application is received.

The Planning Act also requires that all Planning Authorities make decisions that are consistent with the 2014 Cabinet Approved Provincial Policy Statement.

In this particular instance, the subject property is designated "Commercial District" in the Town of LaSalle's approved Official Plan.

This property is also situated within the "Settlement Area" designation as defined on Schedule "A1" in the 2014 approved upper-tier (County of Essex) Official Plan document.

Subsection 3.5.1 of the LaSalle Official Plan contains a set of goals for lands designated "Commercial District", including the following:

"To ensure that suitable uses are available within the designated commercial districts to accommodate a full range of commercial goods and services to meet the needs of the surrounding neighbourhoods, the community at large, and the travelling public."

"To recognize that commercial areas are dynamic in nature, and must be able to evolve, adapt and redevelop as market conditions, consumer needs and preferences, and retail trends change over time, and to provide a corresponding policy environment which will permit these changes to occur in a manner which is beneficial to Town of LaSalle ratepayers."

A broad range of commercial uses are permitted within the "Commercial District" land use designation, including: all types of retail, office and service commercial uses; places of entertainment; assembly halls; eating establishments; recreational commercial uses; clinics; funeral homes; financial service establishments; automobile sales and service establishments; gas bars; service stations and other similar business establishments that serve the needs of Town residents and the travelling public.

Subsection 3.5.2 of the Town's Official Plan states that:

"All new uses locating within this designation will be required to conform to high performance standards relating to parking, lighting, landscaping, buffering and control over outside storage as set out in the implementing zoning by-law and site plan control agreements"

"Commercial developments and redevelopments will be subject to site plan control pursuant to Section 41 of the Planning Act, R.S.O. 1990"

Sections 6 and 7 of the LaSalle Official Plan articulate a number of site plan control, transportation, storm drainage, and amendment procedure policies that apply to all new commercial development rezoning and site plan control applications in the Town --- including the following:

"Expansions to existing and the establishment of new commercial developments shall be subject to site plan control."

"The Town's objectives in using site plan control are:

- a) to ensure a high standard of site design for new development;*
- b) to ensure safety and efficiency of vehicular and pedestrian access;*
- c) to minimize incompatibilities between new and existing developments;*
- d) to control the location of driveways, parking, loading and garbage collection facilities;*
- e) to secure easements or grading and alterations necessary to provide for public utilities and site drainage;*

- f) *to ensure that the development proposed is built and maintained as approved by Council."*

"As a condition of approval of plans, Council may require the Owner to provide at no expense to the municipality a dedication of land of up to 5.2 metres in width abutting Malden Road, for future road widening purposes."

"Council will encourage the development of pedestrian routes to link all major open space areas, commercial districts, and schools and other public institutions located within the Town. This pedestrian network will be integrated with and designed to function as part of the Town's overall transportation network, providing a safe and convenient alternative to automobile forms of transportation."

"Sidewalks on one or both sides of the street, or at other required locations, will be required to be constructed to serve new development and to provide pedestrian access to schools, parks and commercial districts town-wide."

"All new development shall be provided with adequate storm drainage facilities connected to storm sewers, drains and watercourses, and will have to comply with all storm water management requirements for both quantity and quality."

"All proposed amendments to the implementing zoning by-law shall be processed in accordance with the provisions of Sections 34 of the Planning Act, R.S.O. 1990, and due regard shall be given to the following matters:

- a) the physical suitability of the land to be used for the proposed use;*
- b) the adequacy of all required services;*
- c) the adequacy of the road system to accommodate the proposed traffic volume increases;*
- d) the compatibility of the proposed use with existing and potential future uses in the surrounding area; and*
- e) the need for the additional land to accommodate the proposed use/facilities."*

The approved County of Essex Official Plan includes a number of Schedules that identify the various elements that collectively comprise the *"County of Essex's Natural Heritage System"*.

Lands designated "Natural Environment" on the County of Essex Official Plan Schedules are situated adjacent to the site that is affected by this Planning Act application --- meaning that there are known and identified significant natural heritage features on adjacent lands.

Subsection 3.4 of the County Official Plan includes policies, which state that:

"Development and site alteration shall not be permitted on adjacent lands to the natural heritage feature and areas unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be not negative impacts on the nature features or on their ecological function."

The 2014 Provincial Policy Statement includes a number of provincial policies which re-enforce the "Natural Environment" policies contained in the upper-tier (County of Essex) Official Plan, including the following "Natural Heritage" policies:

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

"Development and site alteration shall not be permitted on adjacent lands to the natural heritage features unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be not negative impacts on the natural features or on their ecological functions."

AGENCY COMMENTS:

The subject application was circulated to the Essex Region Conservation Authority (ERCA), the County of Essex, the local school boards, and to a number of utility companies.

The County of Essex has submitted correspondence dated July 20, 2017 (copy attached), advising the Applicant as to the County's setback requirements from the centerline of Malden Road (County Road 3).

It should be noted that this section of Malden Road is a County Road, under the jurisdiction of the County for both Corridor Control (access and setback) and Operational/Maintenance purposes. The County has approval authority with respect to all new commercial entrances/exits onto this County Road.

The County has also requested the opportunity to be involved in the Site Plan Approval process – to ensure that their interests are met regarding access, structure setback, drainage and signage.

The Applicant has submitted correspondence from the MNRF, dated March 28, 2017, wherein they provide their ESA comments and recommendations regarding the subject commercial development application (see attached letter).

In the attached correspondence, MNRF states that they have determined that the activities associated with the project, as currently proposed, will likely not contravene Sections 9 and/10 of the Endangered Species Act, provided the recommendations as set out in their March 28, 2017 letter are implemented --- including:

- the creation and maintenance of a 10 metre wide Buffer and Restoration Area at the northwestern edges of the property, around the proposed drainage pond;
- this Restoration Area will include the creation of rock and brush pile features that Eastern Foxsnake may utilize as habitat; and
- Dense Blazing Star will be planted in the Restoration Area.

On July 31st we received correspondence from ERCA Staff stating that the Applicant is required to prepare and submit an Environmental Impact Assessment (EIA) for this development application, in keeping with the above noted policy requirements of the County Official Plan --- in order to meet the applicable PPS provisions.

To date, we have not received comments from any other circulated agency.

PUBLIC COMMENTS RECEIVED TO DATE:

The Planning Advisory Committee held an Information Meeting on July 13, 2017, in the Council Chambers at the Town Hall:

- (i) to provide an opportunity for residents living in the surrounding neighbourhood to obtain additional information;
- (ii) to provide a forum for questions to be asked of the Applicant; and
- (iii) to receive public comments at the "front-end" of the planning review and approval process.

Representatives of the Applicant, together with the Applicant's Consultant, were in attendance and provided an explanation of their rezoning request --- utilizing the conceptual site plan as shown on Figure 3.

The following is a brief summary of the public comments/questions that were received at this Public Information Session:

- concerned that the new commercial plaza will be located too close to an existing residence;
- concerned about the increased traffic volumes going to/from this site, and the corresponding road safety issues should this new commercial development be approved;
- has a traffic impact study been completed to evaluate the adequacy of Malden Road at this location to handle additional turning movements and traffic volumes?

PRELIMINARY COMMENTS

Town Planning and Engineering Staff believe there is merit in the Applicant's proposed new development for the subject lands.

However, in order to properly address the concerns that were expressed by residents who attended the information session, and to ensure conformity with both the local and the upper-tier Official Plan

documents, the following information is needed from the Applicant before a final review of the subject rezoning and site plan control applications can be completed:

- The preparation and submission of a traffic impact study, based on the Applicant's revised conceptual site plan (Figure 4), prepared to satisfaction of the Town Engineer and the County Engineer;
- The preparation and submission of a EIA, from the Applicant's Natural Heritage Consultant, to demonstrate how they have satisfied the County of Essex Natural Heritage Policy requirements, all to the satisfaction of the ERCA Staff;
- A written response from the Applicant's Planning Consultant identifying how their final site plan for the subject property: i) conforms to the applicable Official Plan policies as set out in this Staff Report; (ii) addresses the concerns raised by residents who spoke at the July 13th Public Information Session; and (iii) ensures that on-site pedestrian/ vehicular circulation, parking, and emergency vehicle access are properly designed for the various proposed land uses and corresponding buildings.

Once we receive this additional information, we will in turn review same and prepare a subsequent Staff Report with recommendations for Council.

We would be pleased to answer any questions with respect to the contents of this Staff Report.



Respectfully,

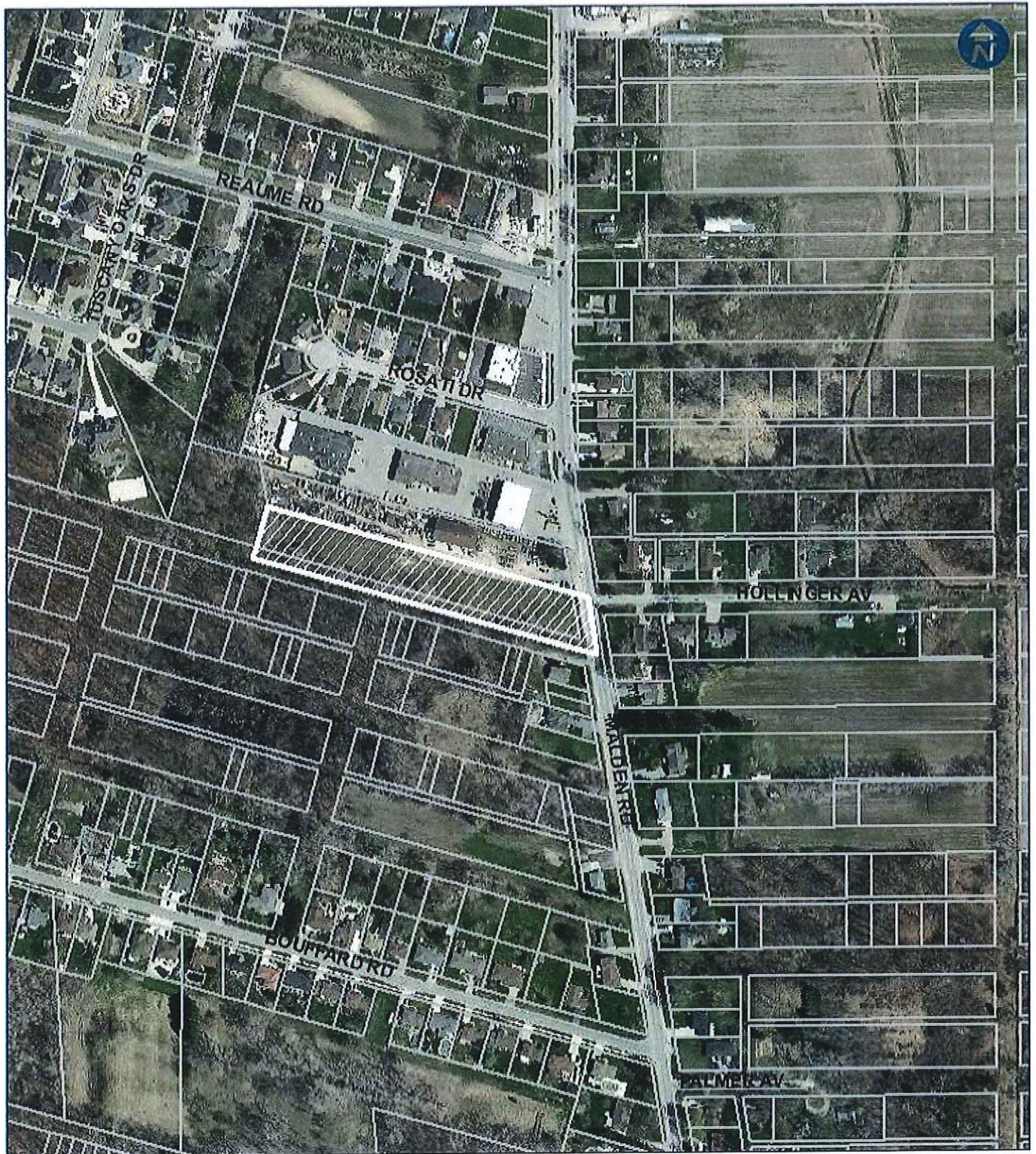


L. Silani, M.Pl., MCIP, RPP
Director of Development &
Strategic Initiatives

A. Burgess, MCIP, RPP
Supervisor of Planning &
Development Services

Attachments

Reviewed by:						
CAO	Finance	Clerk	Public Works	Development & Strategic Initiatives	Culture & Recreation	Fire
						



Legend:



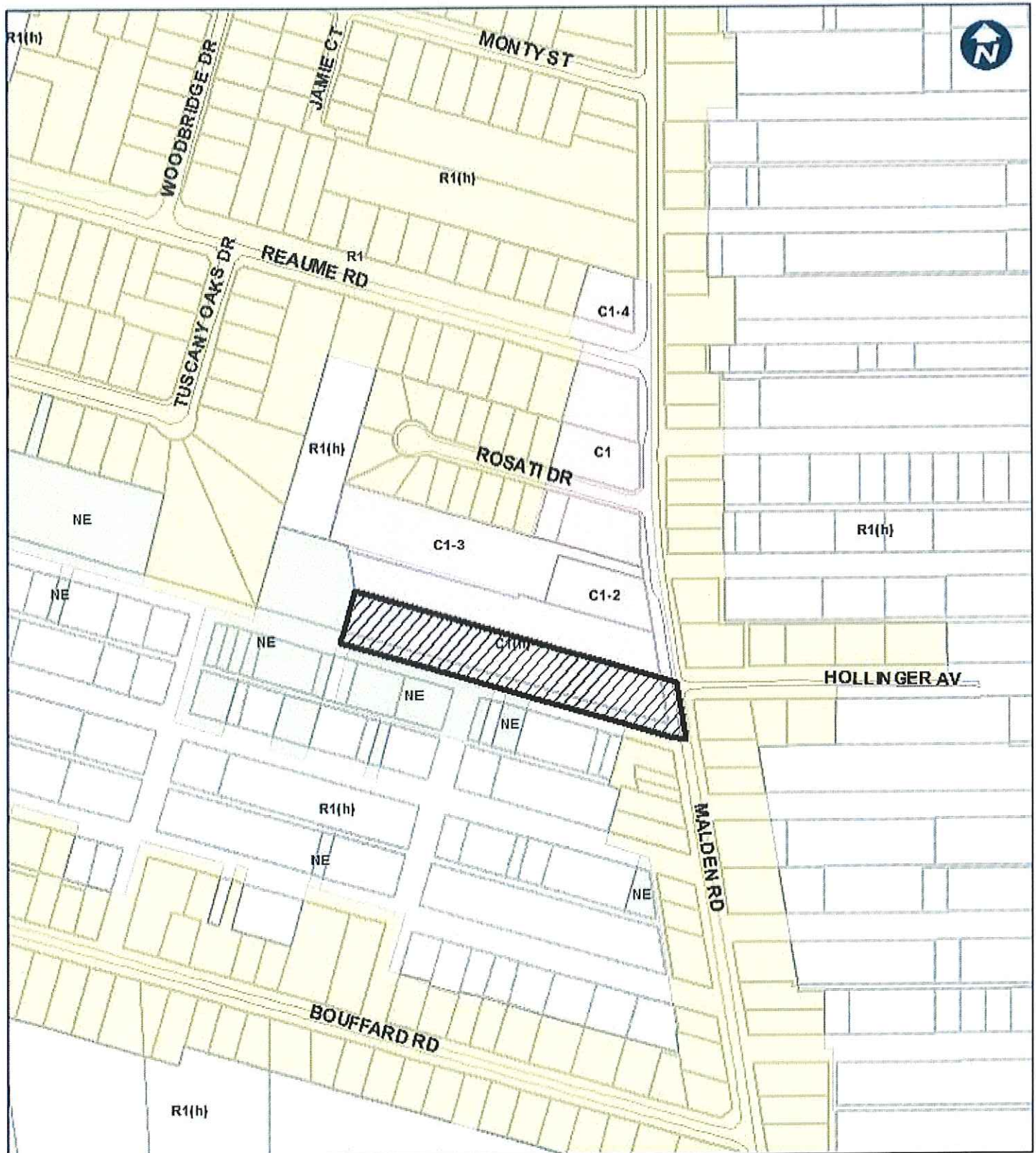
Subject Lands

Title:

FIGURE 1 - KEY PLAN



Scale:	1:2000	File No:	Z-11/17 & SPC-02/17
Prepared For:	Planning Dept.	Applicant:	Tuscany Oaks Ltd
Prepared By:	Finance Department GIS Services	Date:	January 7, 2015
Notes:	This document is not a Legal Plan of Survey.		



Legend:



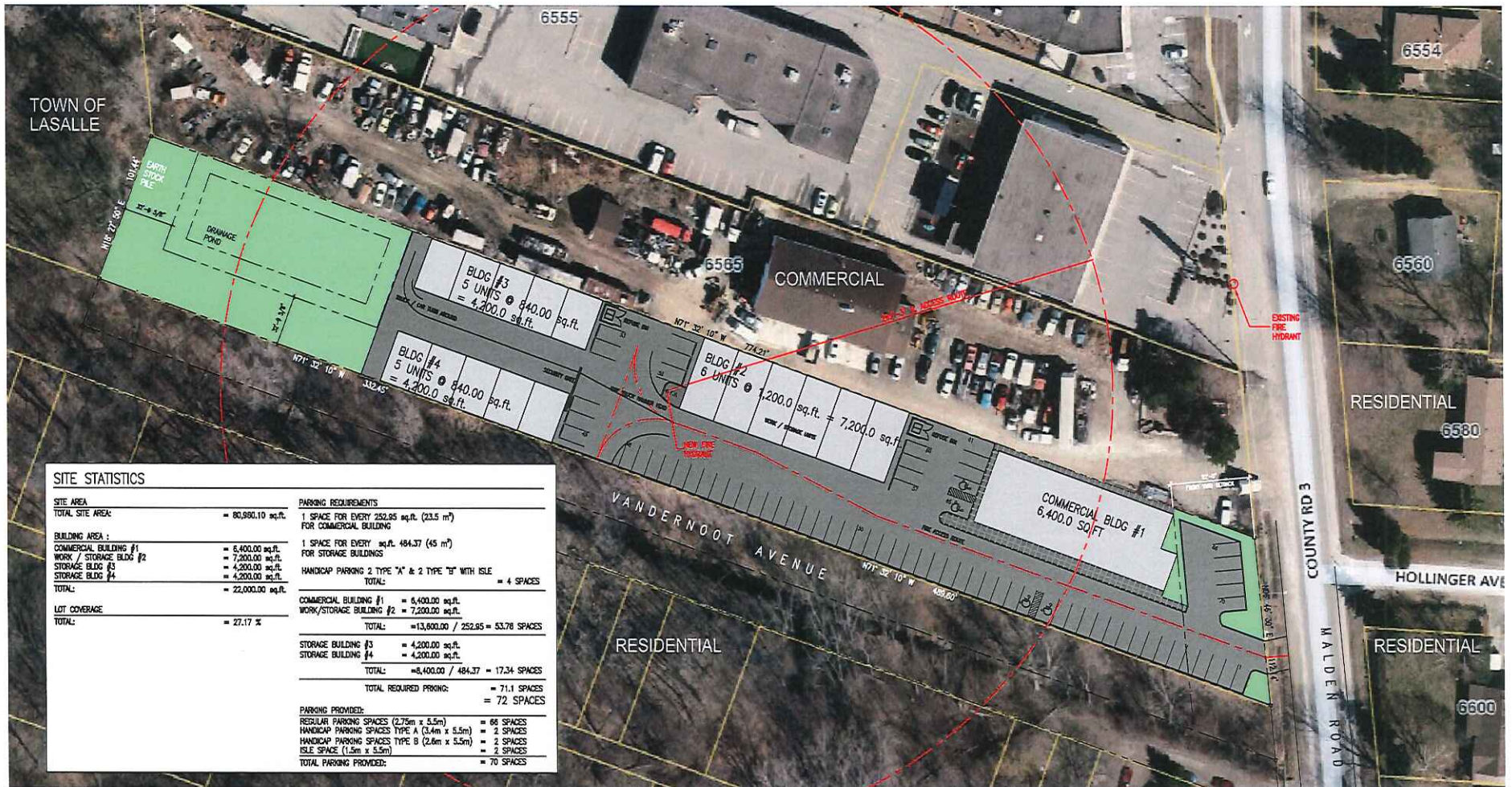
Subject Lands

Title:

FIGURE 2 - ZONING



Scale:	1:2000	File No:	Z-11-17 & SPC-02-17
Prepared For:	Planning Dept.	Applicant:	Tuscany Oaks Ltd
Prepared By:	DSI	Date:	July 31, 2017
Notes:	This document is not a Legal Plan of Survey.		



Site Plan

Proposed Commercial and Storage Development

ISSUED FOR REZONING Issued - 5/26/17

Figure 3



regs@erca.org

P.519.776.5209

F.519.776.8688

360 Fairview Avenue West
Suite 311, Essex, ON N8M 1Y6

July 31, 2017

Mr. Ryan Tufts, Planning Technician and Secretary-Treasurer Committee
of Adjustment
Town of LaSalle
5950 Malden Road
LaSalle ON N9H 1S4

Dear Mr. Ryan Tufts:

RE: Zoning By-Law Amendment Z-11-17
MALDEN RD (6585 Malden Rd)
ARN 373405000006680; PIN: 705340806
Applicant: TUSCANY OAKS LTD

The following is provided for your information and consideration as a result of our review of Zoning By-Law Amendment Z-11-17. We understand that the purpose of this Zoning By-law Amendment is to rezone this site from a Neighbourhood Commercial Holding Zone - C1(h) to a site-specific Neighbourhood Commercial (C1-9) to allow a new zone category for the following additional uses: commercial storage, studio space, automobile repair garage, and builders and contractors establishments.

NATURAL HAZARD POLICIES OF THE PPS, 2014

We have reviewed our floodline mapping for this area and it has been determined this site is **not** located within a regulated area that is under the jurisdiction of the ERCA (Section 28 of the *Conservation Authorities Act*). As a result, a permit is not required from ERCA for issues related to Section 28 of the *Conservation Authorities Act*, Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulations under the *Conservations Authorities Act*, (Ontario Regulation No. 158/06).

WATER RESOURCES MANAGEMENT

We have concerns regarding the potential impact of the quality and quantity of runoff in the downstream watercourses due to future development in this area. We would therefore ask to be circulated any Site Plan Control application. We will reserve to comment further on water resources management concerns until this development can proceed to the Site Plan Control stage.

Mr. Ryan Tufts
July 31, 2017

NATURAL HERITAGE POLICIES OF THE PPS, 2014

The subject property is within, and/or is adjacent to (within 120 metres of), a natural heritage feature that is identified as a significant woodland, and significant wildlife habitat under the Provincial Policy Statement (PPS, 2014). This property contains portions of the Candidate Natural Heritage Site - 'TC6'.

Section 2.1.5 of the PPS, 2014 states - Development and site alterations shall not be permitted in significant woodland... and significant wildlife habitat...unless it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.

Section 2.1.8 of the PPS 2014 states – "Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5 and 2.1.6 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions." The required demonstration of no negative impact, in accordance with the relevant PPS policies outlined above, is most effectively accomplished through the completion of an Environmental Impact Assessment (EIA). However, other options may exist as an adequate demonstration of no negative impact. We strongly recommended that prior to initiating an EIA that the applicant contacts our office to determine the scale and scope of the analysis.

FINAL RECOMMENDATION

It is therefore recommended that the Application be **deferred** until such time as an Environmental Impact Assessment has been completed. We would encourage the applicant to contact our office at their soonest convenience to discuss the Terms Of Reference for the Environmental Impact Assessment.

If you have any questions or require any additional information, please contact the undersigned.

Sincerely,



Tim Byrne,
Director, Watershed Management Services
/cor





Office of the Manager, Planning Services

William J. King, AMCT, MCIP, RPP
Manager, Planning Services

July 20, 2017

Ms. Brenda Andreas
Town of LaSalle
5950 Malden Road
LaSalle, Ontario
N9H 1S4

Dear Ms. Andreas:

RE: Z-11-17, West Side of County Road No. 3, North Side of Vandernoot Avenue

Please be advised that the County has reviewed the aforementioned application and the comments provided are engineering related only. This application has not been reviewed from a planning perspective. The subject lands have frontage on County Road No. 3. The Applicant will be required to comply with the following County Road regulations:

County By-Law Number 2481 – A By-Law to Provide for the Protection of Highways and to Provide for the Installation of Entrance Ways.

County By-Law Number 2480 – A By-Law of the Corporation of the County of Essex to Regulate the Location of Buildings and Structures on Land Adjacent to County Roads.

The minimum setback for any proposed structures on this property must be 85 feet from the center of the original ROW of County Road 3. Permits are necessary for any changes to existing entrances and structures, or the construction of new entrances or structures.

The County of Essex is requesting the opportunity to be involved in the Site Plan Control process with this property to insure that our interests are met regarding access, structure setback, drainage and signage.

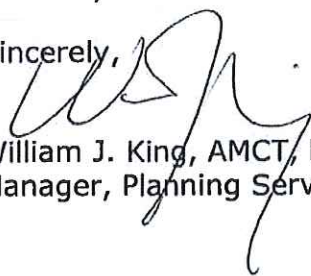
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Page 2 of 2

Click here to enter a date.

We are requesting a copy of the Decision of the aforementioned application. Thank you for your assistance and cooperation in this matter.

Sincerely,



William J. King, AMCT, MCIP, RPP
Manager, Planning Services

Ministry of Natural
Resources and Forestry
615 John Street North
Aylmer ON N5H 2S8
Tel: 519-773-9241
Fax: 519-773-9014

Ministère des Richesses
naturelles et des Forêts
615, rue John Nord
Aylmer ON N5H 2S8
Tél: 519-773-9241
Téléc: 519-773-9014



March 28, 2017

AYL-L-030-17

Peter Valente
Tuscany Oaks Ltd. c/o Valente Development Corporation
1985 Dougall Avenue
Windsor, ON N9E 1S1

Dear Mr. Valente:

RE: Development of Storage Garage Condominiums and the *Endangered Species Act, 2007*

The Ministry of Natural Resources and Forestry (MNRF) has reviewed the information that was provided on the proposed development of storage garage condominiums project to assess the potential impacts of the proposal on endangered or threatened species and their habitats. From the information provided, it is our understanding that the proposed project falls within these parameters:

- a) The project is located at 6585 Malden Road Part of Lot 35 Concession 1 in the Town of LaSalle, Ontario.
- b) The proposed project involves the development of storage garage condominiums and will entail clearing some natural vegetation.
- c) The proposed project will begin as soon as appropriate approvals are in place and be completed by late summer and/or fall 2017.
- d) MNRF has reviewed species at risk (SAR) occurrence information on file and determined that there are known occurrences of SAR in the general area of the project, including:
 - a. Eastern Foxsnake - Carolinian population (endangered) – The entire project area falls within regulated habitat for the species. (<https://www.ontario.ca/page/eastern-foxsnake>)
 - b. Eastern Flowering Dogwood – (endangered) – (<https://www.ontario.ca/page/eastern-flowering-dogwood>)
 - c. Kentucky Coffee-tree – (threatened) – (<https://www.ontario.ca/page/kentucky-coffee-tree-species-risk>)
 - d. Dense Blazing Star - (threatened) – (<https://www.ontario.ca/page/dense-blazing-star>)

- e. Butternut (endangered) – (<https://www.ontario.ca/page/butternut-species-risk>)

Based on a review of the Memo from Dillon Consulting dated September 8, 2016 (*Stage 1: Species at Risk Information Request for the Proposed 6585 Malden Road Property Development located in the Town of LaSalle*) and Email from Allen Benson of Dillon Consulting dated March 1, 2017, MNRF has determined that the activities associated with the project, as currently proposed, **will likely not contravene** section 9 (species protection) and/or section 10 (habitat protection) of the *Endangered Species Act, 2007* (ESA 2007) for [Species] **provided the following recommendations are implemented:**

1. Final development design for the property shall adhere to Figure 2 Conceptual Development Plan as included in the letter. This includes:
 - a. A 10 metre buffer and Restoration Area at the northwestern edges of the property around the proposed drainage pond;
 - b. This Restoration Area will include creation of rock and brush pile features that Eastern Foxsnake may utilize as habitat; and
 - c. Dense Blazing Star will be planted in the Restoration Area.
2. A copy of this letter shall be available at the work site at all times when conducting activities described in this letter;
3. All construction machinery and equipment that is left idle for one (1) hour or longer, or is parked overnight, at the work site shall be visually surveyed for the presence of snake species before (re)ignition. This visual examination shall include all lower components of the machinery, including operational extensions and running gear;
4. All on-site personnel must be made aware of the potential presence of SAR on site, especially Eastern Foxsnake, and the protection afforded under the ESA 2007, prior to conducting any work on the site.
5. Any SAR individual that is incidentally encountered on the Property must be allowed to leave on its own accord. Activities within 30 m shall cease until the individual disperses. Construction machinery/equipment must maintain a minimum operation distance of 30 m from the individual until it disperses the Property on its own accord.
6. Should on-site personnel be unable to allow an incidentally encountered SAR individual to disperse from the active construction area its own ability, a qualified biologist must be contacted immediately to safely relocate the individual to suitable habitat outside of the development footprint.
7. Any SAR individual that is observed within the Property will be reported to the MNRF Aylmer District staff within 48 hours of the observation or the next working day, whichever comes first.

8. If an injured or deceased SAR is found, the specimen must be placed in a non-airtight container that is maintained at an appropriate temperature and MNRF must be contacted immediately for additional guidance.
9. During the active season for snake species (March to November), individuals may find and occupy materials and equipment stored on site; therefore, a clean, debris-free work site will be maintained (e.g. storage of flat materials like plywood and rubber mats in open areas should be avoided).

If these recommendations are implemented, the activity will likely not contravene section 9 (species protection) and/or section 10 (habitat protection) of the ESA 2007.

Failure to comply with all the above recommendations may leave you at risk of being in contravention of the ESA 2007. Should the project parameters change and/or if you are unable to comply with any of the above recommendations, please notify the MNRF Aylmer District office immediately to obtain guidance on whether additional actions will need to be taken to remain in compliance with the ESA 2007.

It is important to note that changes may occur in both species and habitat protection which could affect whether proposed projects may have adverse effects on SAR. The ESA 2007 applies to endangered and threatened species listed on the Species at Risk in Ontario (SARO) List (<http://www.ontario.ca/environment-and-energy/species-risk-ontario-list>). The Committee on the Status of Species at Risk in Ontario (COSSARO) meets regularly to evaluate new species for listing and/or re-evaluate species already on the SARO List. As a result, species designations may change, which could in turn change the level of protection they receive under the ESA 2007. Also, habitat protection provisions for a species may change if a species-specific habitat regulation comes into effect.

Additionally, please note that the province has not been surveyed comprehensively for the presence or absence of SAR, and MNRF data relies on observers to report sightings of SAR. As such, the absence of an element occurrence does not indicate the absence of species and/or habitat and there is potential for new observations to be documented in the general area of the Property.

For these reasons, this Letter to Proponent (AYL-L-030-17) is only valid until September 30, 2018.

Should you be unable to proceed with this project until after the above noted date, you should contact the MNRF and seek guidance on remaining compliant with the ESA 2007.

Please be advised that it is your responsibility to be aware of and comply with all other relevant provincial or federal legislation, municipal by-laws or required approvals from other agencies.

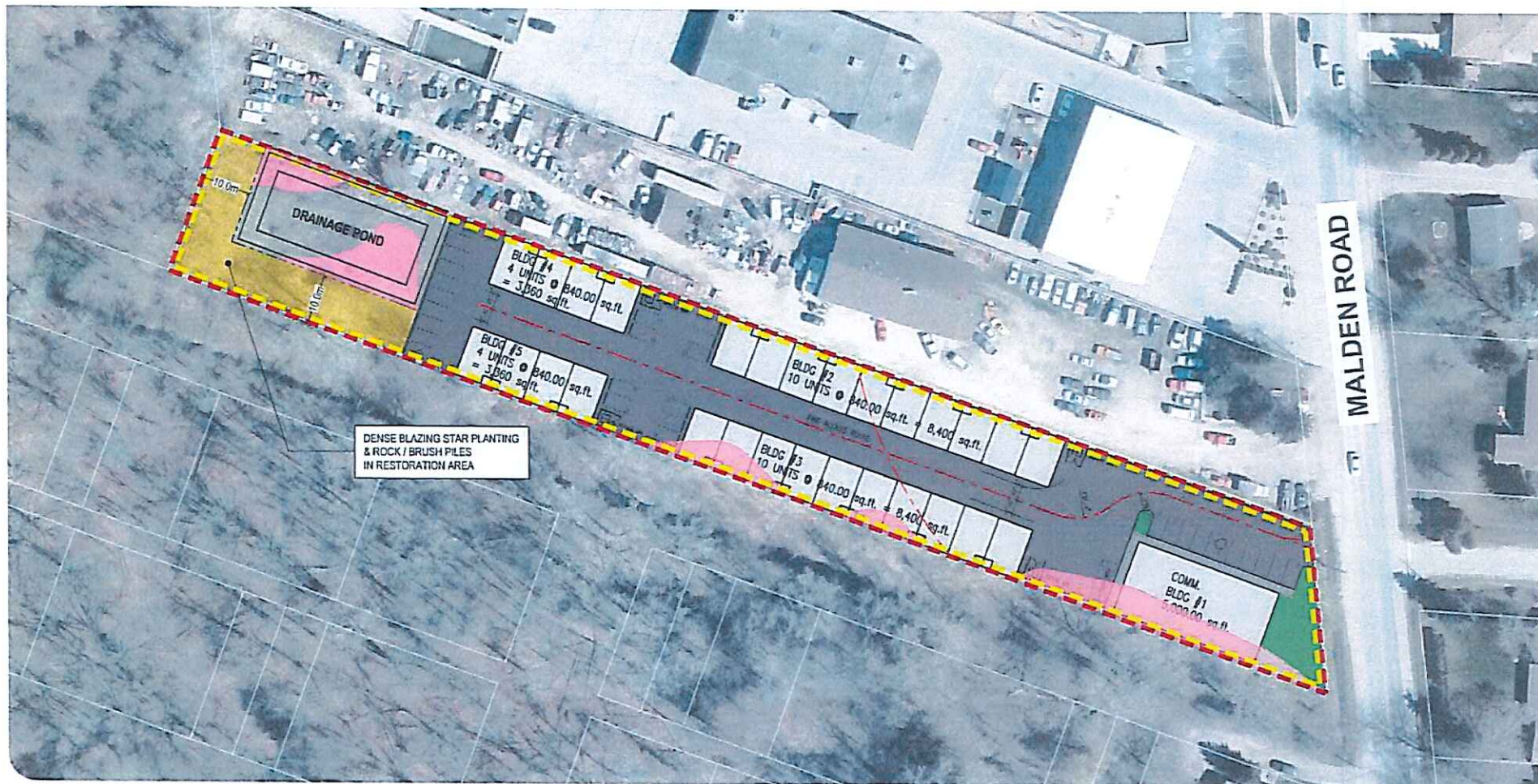
If you have any concerns or questions regarding this letter, please contact me at 519-773-4732 or by email at ESA.Aylmer@ontario.ca.

Sincerely,



Cam McCauley
Management Biologist, Aylmer District
Ministry of Natural Resources and Forestry

cc. Allen Benson, Dillon Consulting



TUSCANY OAKS LTD.
6565 MALDEN ROAD, LASALLE

SPECIES AT RISK:
INFORMATION REQUEST
FIGURE 2.0 - CONCEPTUAL DEVELOPMENT PLAN



PROPERTY BOUNDARY = ± 0.75ha (1.86ac)



AREA OF DISTURBANCE = ± 0.75ha (1.86ac)



APPROXIMATE LOCATION(S) OF VEGETATION REMOVAL



RESTORATION AREA

SOURCE: CONCEPTUAL SITE PLAN (BY OTHERS, 2013), COUNTY OF ESSEX 2015 AERIAL PHOTOGRAPH (2015)

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MAP/DRAWING INFORMATION
THIS DRAWING IS FOR INFORMATION PURPOSES ONLY. ALL
DIMENSIONS AND BOUNDARY INFORMATION SHOULD BE
VERIFIED BY AN O.L.S. PRIOR TO CONSTRUCTION.
CREATED BY: HW
CHECKED BY: KOT
DESIGNED BY: HW/KOT

SCALE: 1:750



PROJECT: 16-1100
STATUS: FINAL
DATE: 02/24/2017