



A People Place, A Change of Pace
SHELBURNE
ONTARIO, CANADA

NVCA

JUL 14 2016

RECEIVED

July 5, 2016

Nottawasaga Valley Conservation Authority
8195 – 8th Line
Utopia ON
L0M 1T0

Attn: Gayle Wood

Attached please find your signed copy of the Service Agreement for Plan Review and Technical Clearance.

Thank You

Jennifer Willoughby
Deputy Clerk
Town of Shelburne

SERVICE AGREEMENT

FOR PLAN REVIEW AND TECHNICAL CLEARANCE

BETWEEN

THE TOWN OF SHELBURNE

AND THE

NOTTAWASAGA VALLEY CONSERVATION AUTHORITY

Date: April 2016

1. INTRODUCTION

Nottawasaga Valley Conservation Authority (NVCA) provides plan review and regulatory functions under authority provided by the *Planning Act* and the *Conservation Authorities Act*, or other applicable legislation. As outlined below, this agreement recognizes that the Town of Shelburne is the approval authority under the *Planning Act* for Plans of Subdivision and Condominium and outlines a partnership between the NVCA and the Town of Shelburne intended to promote efficiency, effectiveness, and clarity in the plan review process including enhancing communications and issue resolution.

The **PURPOSE** of this agreement is to:

- a) Clarify the roles that the Town of Shelburne and the NVCA perform in the plan review process;
- b) Clarify the roles and responsibility of the NVCA planning and regulation program;
- c) Outline the circumstances where the NVCA will review planning applications and provide technical expertise to the Town consistent with its mandate under the *Conservation Authorities Act*;
- d) Support the municipal plan review system and facilitate where opportunities exist the creation of a "one window" planning system operating from the Town of Shelburne;
- e) Assist with the streamlining and increased transparency of the approval process through attendance at mandatory Pre-application Consultation meetings; and,
- f) Develop clear protocols for the NVCA and Town of Shelburne to communicate and discuss issues that arise during the plan review process and to put in place a dispute resolution process.

2. ROLES AND RESPONSIBILITIES

The **Town of Shelburne** (hereinafter the "Municipality") and the **Nottawasaga Valley Conservation Authority** (hereinafter the "NVCA") agree that:

- a) The Municipality will screen planning and development applications received by it and forward those applications which require NVCA review/approval within reasonable time frames. The screening of the applications will occur in accordance with the Screening Procedures as set out in Schedule 1 attached. The Screening Procedures may be revised from time to time on written consent of each of the Parties.
- b) The NVCA will, within reasonable time frames, provide the Municipality with plan review and technical clearance services, as set out in Schedule 2 attached, in accordance with the Provincial Policy Statement and NVCA's policies and guidelines, by fulfilling the functions described below:
 - (i) Define, and/or assist with the delineation and/or definition of natural features and assess the long-term ecological function and biodiversity of natural heritage systems, as well as identifying opportunities, where applicable, for restoration or improvements. Examine the functions of these features and recommend mitigative measures and/or approval requirements and/or conditions for the areas identified in 2b) ii).
 - (ii) Define, and/or assist at the Pre-application Consultation stage of the approval process with the determination of the need for, and scope of, specific studies required for the NVCA to fulfill its mandate under the *Conservation Authorities Act* and the *Planning Act*. During subsequent stages help determine the adequacy of the submitted studies. These studies may include environmental impact studies which assess impacts and propose appropriate development limits defined through policy, mitigation, restoration and/or enhancement measures related to:
 - wetlands;
 - watercourses
 - wildlife habitat;
 - habitats of threatened and endangered species;
 - fish habitat;

- areas of natural and scientific interest;
 - woodlands;
 - valley lands;
 - natural hazards (flood, erosion and hazardous sites);
 - ground water discharge and recharge areas;
 - ground water quantity and quality;
 - surface water quantity and quality.
- (iii) Assist in the technical aspects of applying alternative development standards as a best management practice for stormwater management purposes and enhancement of natural heritage features and functions consistent with Provincial and local policies.
- c) That the NVCA will share information or data sources generated through municipal or watershed studies or source water protection work, provided that the data sources are not restricted under third party licensing.
- d) Notwithstanding the purpose of this agreement, it is recognized that:
- (i) The NVCA will review and provide comments and advice in the context of the policies and land use designations of approved official plans and other guiding municipal documents as a resource management agency, landowner, service provider, public commenting agency, as delegated on behalf of the Province for natural hazards, and a regulatory body;
 - (ii) Effective watershed management and environmental protection also requires the appropriate consideration of regional and local natural resources as identified through official and secondary plans, municipal studies, watershed and subwatershed studies, NVCA natural heritage mapping, or a site specific proposal;
 - (iii) The NVCA will continue to provide comments and recommendations as outlined in 2(b)(i & ii), on planning matters circulated by the Municipality such as official plans and policy amendments and municipal studies;
 - (iv) Nothing precludes the Municipality from obtaining peer review comments from qualified professionals on natural heritage matters on applications circulated by the Municipality to the NVCA if deemed necessary or desirable by the Municipality;
 - (v) Nothing precludes the NVCA from commenting to the municipality as would normally be exercised under the *Planning Act*, the *Conservation Authorities Act*, or other applicable legislation;
 - (vi) Qualified professional planning staff will formally comment on planning applications on behalf of the NVCA. Comments from other professionals within the NVCA on planning applications will be considered informal until they are confirmed in writing by planning staff;
 - (vii) The NVCA will have regard for previous comments provided by NVCA staff. Any change in comments based on updated legislation or new information or other matters will be discussed with the Town in advance of any formal correspondence being sent to the municipality; and,
 - (viii) The Town of Shelburne is the approval authority for Plans of Subdivision and Development Applications submitted under the *Planning Act*, and shall exercise its authority considering those comments received from the NVCA.

3. TERMS AND IMPLEMENTATION

a) The Municipality and the NVCA agree:

- (i) The term of this agreement shall be for a period of five years from the date of execution by the Municipality and the agreement may be automatically extended for additional three-year terms, on the same terms and conditions as contained herein at the discretion of the Municipality and the NVCA, until terminated or amended by either party in accordance with subsection 3(b) herein;
- (ii) That the Municipality and the NVCA will generally review this Agreement every two years, to consider changes in programs of the parties or changes in Provincial policies, and at least six months prior to the expiry of the initial five year or subsequent three-year terms. The Municipality's Planning Department and NVCA staff will monitor the agreement and its expiry;
- (iii) To explore further opportunities to streamline the plan and development review system as it relates to Provincial and regional/local interests;
- (iv) The Municipality shall indicate to a prospective applicant where a proposed development may be subject to NVCA regulations and approvals and encourage consultation with the authority.
- (v) When providing written engineering comments to development applicants and the Municipality, the NVCA shall take into regard and consideration, the approved Engineering Design Standards of the Municipality;
- (vi) When providing written comments to applicants and the Municipality, the NVCA shall respond within a reasonable timeframe and clearly specify which comments pertain to matters where the NVCA has the approval mandate, and which comments are recommendations which pertain to those matters where the approval is with the Municipality;
- (vii) To make provisions for NVCA staff to attend Ontario Municipal Board Hearings with Municipal staff, with respect to the plan review and technical clearance services provided pursuant to this agreement. Where Municipal staff is attending Hearings in which matters of mutual interest are at issue, Municipal staff may attend to represent both agencies' interests, at the mutual agreement of both parties. Notwithstanding the aforesaid, the NVCA will not be precluded from independently appealing a decision to the Ontario Municipal Board if they so choose. The protocol as set out by Schedule 3 should be followed in advance of such appeals;
- (viii) To participate jointly in Pre-application Consultation as appropriate for new development proposals. As part of the identification of studies it is agreed that all necessary studies should be identified at the Pre-application Consultation stage and any additional studies should only occur as a result of legislative changes or new information not known or disclosed at the time of the Pre-application Consultation meeting;
- (ix) That fees for NVCA plan review and technical clearance services shall be set by the NVCA, as approved by the NVCA Board of Directors, and reflected in the approved planning Fee Schedules. Any approved revised NVCA fee schedules will be provided to the municipality as they occur;
- (x) That the NVCA shall be responsible for collecting all Processing/Approvals/and/or additional fees as required by the approved NVCA Fee Schedule;
- (xi) It is agreed that the Municipality will not knowingly or without prior communication to the NVCA issue municipal approval of building permits or provide final approval if the NVCA has not signed off on any application which may require a permit from the NVCA under its Regulation or the applicant has not paid NVCA fees;

- (xii) That the municipality shall ensure that applicants are well informed with respect to the need to address the payment of any additional NVCA fees where applicable; and,
 - (xiv) That all parties agree to meet the requirements of the Municipal Freedom of Information and Protection and Privacy Act, R.S.O. 1990, Chapter M.56.
- b) Any party may terminate this agreement at any time upon delivering 12 months written notice of termination, by prepaid registered mail, to all of the other parties, which notice shall be deemed to be received on the third business day from the date of mailing.
- c) Any notice to be given pursuant to this agreement shall be delivered to the parties at the following address:

Town of Shelburne
203 Main Street East
Shelburne, Ontario, L9V 3K7
Attention: Chief Administrative Officer

Nottawasaga Valley Conservation Authority
John Hix Administrative Centre
8195 8th Line, Utopia Ontario, L0M 1T0
Attention: Chief Administrative Officer

4. THE AGREEMENT

Signed, Sealed and Delivered

This 20th day of JUNE 2016

The Corporation of the Town of Shelburne

Mayor

Chief Administrative Officer

Signed, Sealed and Delivered

This 7th day of June 2016

The Nottawasaga Valley Conservation Authority

Chair

Chief Administrative Officer

SCHEDULE -1*Screening Procedure*

1. The following Screening Criteria is to be used to provide the Municipality with a reference for the circulation of development applications and/or policy documents.
2. All policy documents that may affect environmental and/or natural hazard issues and/or NVCA lands shall be circulated by the Municipality to the NVCA for comment; e.g., Official Plan and Secondary Plan Amendments, Policy Amendments, Background Municipal Studies, Subwatershed Studies, Environmental Assessments and other environmental studies.
3. Where the land area of a development application is wholly, or partially within or abutting the NVCA Area of Interest, the following applications shall be forwarded by the Municipality:
 - a. Site Specific Official Plan Amendment Applications and any related applications as noted in items c, d or g below.
 - b. Site Specific Rezoning and Minister's Zoning Order Applications, also any applications related to items c, d or f below.
 - c. Plan of Subdivision Applications which are both within and outside the area of interest.
 - d. Plan of Condominium Applications which have not received previous site plan or subdivision approval, which are both within and outside the area of interest.
 - e. Consent Applications involving easements, creation of new lots or part lots, and/or lot boundary adjustments or additions.
 - f. Minor Variance applications
 - g. Site Plan Approval Applications (pursuant to Section 41 of the *Planning Act*) which are both within and outside the area of interest.

The NVCA would then be invited to attend the Pre-application Consultation meeting where the applicant would be notified of the required applications and review fees required as part of the approvals process.

4. For Building Permit Applications on properties subject to NVCA regulations, the Municipality will advise applicants that they are required to contact the NVCA to ensure that the application meets the requirements of the *Ontario Regulation 172/06* or its successor as well as the *Ontario Building Code*. Note: Municipal approval of building permits will not be issued for properties that may be within a regulated area, until such time as requisite clearances have been provided by the NVCA.
5. Any works proposed within or adjacent to a valley or stream corridor or other areas regulated by the NVCA, may require NVCA permit approval under the NVCA's Ontario Regulation. Where it has been identified by the NVCA that such permits are required, this requirement shall be identified in, and where feasible, be a condition of all *Planning Act* approvals provided by the Municipality.
6. For all development applications not within NVCA regulated areas, or other areas of concern to the NVCA, the Municipality will be solely responsible for the review, approval, inspection and enforcement of erosion and sediment control measures during the construction period.
7. The NVCA may require within an Area of Interest, landscape and planting considerations, in addition to sediment and erosion control requirements, which shall be considered by Municipal staff in review of affected applications.
8. For all applications listed in number 3 (above), the NVCA may require review of, and/or request additional studies in support of, proposed or requisite stormwater management measures.

SCHEDULE-2*Definitions*

1. "Plan Review" is defined as:
 - (i) reviewing development applications in a reasonable timeframe as agreed upon and identified by this Agreement recognizing the *Planning Act* objectives;
 - (ii) delineating and assisting with the delineation of the limits of the natural features and systems;
 - (iii) identifying the need for technical reports; and
 - (iv) recommending conditions of approval.
2. "Technical Clearance" is defined as:
 - (i) assessing technical reports submitted by the proponent to determine if the reports satisfy the conditions specified; and
 - (ii) clearing the conditions.
3. "Area of Interest" is defined as the areas listed in Section 2b) ii) which includes:
 - NVCA regulated areas including: watercourses, river and stream valleys, natural hazards (flooding, erosion and unstable soils/bedrock), wetlands, and associated allowances & other lands.
 - Natural features and areas including: areas of natural and scientific interest, habitat of rare and endangered and threatened species, significant wildlife habitat, woodlands, wetlands, surface and groundwater features and fisheries habitats.
4. "Reasonable Timeframe" for the review and comment on development submissions is defined as the time frames provided in the *Planning Act* and the Province's *Policies and Procedures for Conservation Authority Plan Review and Permitting Activities*. Notwithstanding, NVCA staff will attempt to review complete submissions within 30 working days from the time of NVCA's receipt of the submissions.

SCHEDULE-3*Plan Review Communications and Issue Resolution Protocol*

1. All disputes should be resolved in a **collaborative** manner between the NVCA and Municipal staff;
2. An affected or interested property owner or designated agent may be invited to participate in discussions if it is determined that their input would be of assistance in resolving the matter.
3. Each party should clearly articulate their expectations with clear lines of communication and **respect** for each party's interests, mandates, and authority; and,
4. Before proceeding to any formal dispute resolution mechanisms involving NVCA Board or Directors or Municipal Council, the NVCA and Municipality staff should use their best efforts to **jointly** develop a written issue statement, describing the facts and events leading to the dispute and potential resolution options. The steps in the issue resolution protocol shall be as follows:

Steps

1. Municipal planner to discuss matter with NVCA planner in attempt to resolve matter;
2. Municipal Dept. Head to discuss matter with NVCA Planning Director in attempt to resolve matter;
3. Municipal CAO to discuss matter with NVCA CAO in attempt to resolve matter;
4. Municipal CAO, NVCA Board of Directors representative(s), NVCA CAO review matter in attempt to resolve matter; and then if unresolved:
5. To NVCA Board of Directors.