

Attachment B
South Nation Conservation Authority Comments



Via E-mail (wvankeulen@twpec.ca)

October 1, 2021

Wendy Van Keulen
Community Development Coordinator
Township of Edwardsburgh Cardinal
18 Center St., P.O. Box 129
Spencerville, ON K0E 1X0

Re: Proposed Comprehensive Zoning By-law of the Township of Edwardsburgh Cardinal

Dear Wendy Van Keulen,

South Nation Conservation (SNC) received a proposed Comprehensive Zoning By-law for the Township of Edwardsburgh Cardinal on August 26, 2021. We appreciate the opportunity to review and comment on the draft Zoning By-law and are happy to answer any question you may have regarding our comments.

After considering the environmental impacts of the proposed zoning by-law amendment on the local environment, as outlined under Sections 2.1 (Natural Heritage), and 3.1 (Natural Hazards) of the Provincial Policy Statement, 2020, issued under Section 3 of the *Planning Act* and considering the Edwardsburgh Cardinal Official Plan, SNC offers the following initial comments:

Comments on Section 2 - Definitions:

1. The definition of "CONSERVATION USE" should be amended to include aquatic characteristics and/or watercourse(s) and that there should be no negative impacts to the landform or natural characteristics. Suggested definition:

Revise as recommended.

"CONSERVATION USE shall mean research observation, education, preservation, improvement and enhancement with respect to natural resources or the natural environment, as well as passive outdoor recreation activities such as hiking that do not involve alteration to the landform that have a negative impact on natural vegetative and/or aquatic characteristics of the land and/or a watercourse.

2. The addition of a definition for "DEVELOPMENT" is encouraged. Suggested definition:

Not recommended.

"DEVELOPMENT shall mean the creation of a new lot, a change in land use, or the construction, reconstruction, erection or placing of buildings or structures; and any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure"



Not recommended.

3. The definition of “EXISTING” should be changed to identify that it refers to legally existing”. This will help to ensure existing structures erected without proper approvals are not treated as legally existing.

Revise as recommended.

4. The definition of “PARTIAL SERVICE” under “SEWAGE AND WATER SYSTEMS” states: “PARTIAL SERVICE shall mean connection to one full service and the other connection to a private service.” For consistency with the definition of “full service” it is suggested that “full” be replaced by “piped public water or sewage” in this definition. Suggested definition:

PARTIAL SERVICE shall mean connection to either piped public water or sewage and the other connection to a private service.

Not recommended.

5. The addition of a definition for “REGULATED AREA” is encouraged. Suggested definition:

“REGULATED AREA shall mean the greatest physical extent of the combined hazards, plus a prescribed allowance, as set out in the Conservation Authorities Act.”

Not recommended.

6. The addition of a definition for “SITE ALTERATIONS” is encouraged. Suggested definition:

“SITE ALTERATION shall mean site grading, or the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere”

Not recommended.

7. The definition of watercourse should be amended to remove the terms “natural” and “including creeks and streams” as the term watercourse under the Conservation Authorities Act can include sections of channelized watercourses such as municipal drains that are not necessarily natural. Suggested definition:

WATERCOURSE shall mean a drainage channel that conveys water either permanently or intermittently.

Comments on Section 3 – General Provisions

Not recommended.

8. Section 3.11.4. Replacement of Non-complying Sewage Disposal Systems it is suggested to add a section number for the water setback provisions referred to in this provision. The addition of a section number and cross-referencing would help clarify what provisions apply. This provision and the water setback provisions could clarify the part of the sewage disposal system being measured from. For example, whether the measurement is from the treatment unit, distribution pipe or mantle, or any part of the system. Doing so will add greater clarity and certainty for planning project proponents.



9. Add a note to section 3.11.4 notifying that any development, or site alterations, including replacement of an existing septic, within the regulated area may require a permit from the South Nation Conservation as per section 5.7.1. - Floodplain Overlay Zone, and the potential section on unstable slopes if added.

10. Section 3.16 Setbacks from Environmental Protection (EP-PSW and EP_ANSI) Zones and Natural Heritage Resource Policy Area Designations in the Official Plan identifies the following:

“120 m, or such lesser setback as recommended in an Environmental Impact Study undertaken to the satisfaction of the Township that demonstrates no negative impacts on natural features or ecological functions provided that such lesser setback shall not be less than 30 m.”

The clause should be amended to reflect that no negative impacts should also be demonstrated for hydrological functions.

A provision should be added to note that development within 120 m of a Provincially Significant Wetland is a regulated under the Conservation Authorities Act. The following provisions are suggested:

Development within 120 m of Environmental Protection (EP-PSW and EP_ANSI) Zones and Natural Heritage Resource Policy Area Designations in the Official Plan may require a permit from South Nation Conservation.

Note the PPS, 2020 and the Conservation Authorities Act do not prohibit development or site alterations within the 30 m setback from a PSW provided an EIS demonstrates no negative impact. Based on a quick review of the Edwardsburg Cardinal Official Plan it does not appear that this was required by the Official Plan. The municipality can choose to restrict development in the 30 m setback from a PSW if they would like to require enhanced protection of PSWs.

11. General provisions should be included in the zoning to implement the policies of section “6.17.7 Fish habitat” of the Edwardsburgh/Cardinal Official Plan.

As per section 6.17.7 of the Edwardsburgh/Cardinal Official Plan “most rivers, streams, watercourses, lakes and wetlands may contain fish habitat”.

Interference with a watercourse is regulated under the Conservation Authorities Act and as such any development or site alterations to a watercourse or the banks of a watercourse require a permit from South Nation Conservation. Additional regulated area applies where there is floodplain, unstable slope, or other natural hazards associated with a watercourse.

It is suggested the proposed zoning by-law be amended to include the following provisions:



Not recommended.

- All watercourses and waterbodies shall be considered direct or indirect fish habitat unless assessed by a qualified professional as part of an Environmental Impact Study, at the appropriate time of the year, identifies that the watercourse is not fish habitat.
- Where a watercourse is assumed or confirmed fish habitat any site alterations or development within 120 m of the watercourse may require preparation of an Environmental Impact Study demonstrating, to the satisfaction of the Township, that there will be no negative impacts on the fish habitat or on their ecological function.
- Interference with a watercourse or development adjacent to a watercourse may require a permit from South Nation Conservation and may require additional approvals from other agencies depending on the work proposed including, but not limited to, the Department of Fisheries and Oceans Canada, and/or the Ministry of Northern Development, Mines, Natural Resources and Forestry.

Not recommended.

12. The addition of provision(s) implementing the policies of the Edwardsburg Cardinal Official Plan related to slope stability are strongly encouraged. The provisions should include the following:

- Areas along watercourses may have steep and/or potentially unstable slopes.
- In considering development and/or planning applications, the approval authority will ensure that erosion potential is considered and may require a geotechnical analysis by a qualified professional.
- Development and site alterations on or adjacent to lands with steep or potentially unstable slopes and erosion hazards may be subject to the Section 28 Regulation made pursuant to the Conservation Authorities Act and administered by South Nation Conservation. Where such lands are subject to Regulation, no buildings or structures shall be constructed or enlarged, and no development or site alteration such as filling, grading and excavating shall occur without the written permission of South Nation Conservation and restrictions may apply.

These provisions could be incorporated with provisions related to Water Setbacks in section 3.25.

13. Section 3.25 – Water Frontage and Water Setbacks subsection 1 states “Except as otherwise provided by Section 3.2, the minimum water frontage for any lot abutting a waterbody shall be 60 m.”

Waterbody is defined as “... any bay, lake, river, watercourse, canal or municipal drain pursuant to the Drainage Act, but excluding a drainage or irrigation channel.”

Based on the definition the provision requires a minimum water frontage of 60 m on a municipal drain. If this is not the intention it may be important to note in the

Not recommended.



provision that it does not include municipal drains. This is simply identified for your consideration.

14. Section 6.18.2 of the Edwardsburgh Cardinal Official Plan states: “Any proposal for development or site alteration proposed to occur less than 30 metres from a water body shall be subject to the policies of the Fish Habitat and Environmental Impact Assessments sections of this Plan.”

Section 3.25 – Water Frontage and Water Setbacks and section 3.27 - Yard and Water Setback Encroachments identifies sections that allow exceptions to the minimum 30 m water setback. Inclusion of a provision to implement the requirements for an Environmental Impact study for development and site alterations closer than 30 m from a fish habitat is encouraged.

15. Section 3.25.2 requires a minimum 30 m water setback for all buildings or structures except as permitted by section 3.2.

Section 3.2 – Existing Undersized Non-complying Lots states “Where, on the date of passing of this By-law, an existing lot has less than the minimum lot frontage, water frontage and/or lot area required by this By-law, or is increased in lot frontage, water frontage and/or lot area but is still undersized, such non-complying lot may be used and a building or structure may be erected, altered or used for a purpose permitted in the zone in which it is located on the date of the passing of this By-law without the requirement to obtain relief from the applicable lot frontage, water frontage and/or lot area provisions of this By-law. This provision shall not be construed as granting relief from any other provisions of this By-law.”

Based on the wording of section 3.2 it does not appear to grant relief from the minimum required 30 m water setback. If the intention of section 3.2 is also to allow a reduced water setback the provision for section 3.2 should be clarified. If there is no intention to reduce water setback for existing undersized non-complying lots, the reference to section 3.2 in section 3.25 should be removed.

16. Provisions for steep or potentially unstable slope and provisions related to fish habitat, when added, should be included or referenced in section 3.25 as results of a geotechnical slope stability study or Environmental Impact Study may impact the required setback from a water body or watercourse.

17. Provisions for the floodplain overlay should be referenced in section 3.25 identifying that water setbacks may be affected by Floodplain Overlay Zone requirements and work beyond the 30 m water setback may require approval from South Nation Conservation if it is in a regulated area and restrictions may apply.



Comments on Section 5 - Zones

Revise as recommended.

18. Section 5.7.1 identifies permitted uses in the floodplain zone. If the definition of existing is left as is it is suggested to add the term “legally” in front of all existing uses listed as permitted in the floodplain zone.

Revise as recommended.

19. Permitted uses in the floodplain overlay zone should include flood and erosion control structures. A definition of flood control structures would need to be added to Section 2 of the by-law. The following definition is proposed:

FLOOD CONTROL STRUCTURE means a structure, improvements, and/or a combination thereof that are generally designed to provide defense against floods, storm surges, and other hazardous events by altering or controlling the flow and/or volume of water. Without limiting the generality of the foregoing, these may include, dikes, spurs, levees, seawalls, weirs, flow splitters, and/or dams.

Not recommended.

20. Section 5.7.2. and 5.7.4. should be revised to include the following:
Conservation Authorities implement Development Interference with Wetlands and Alterations to Shorelines and Watercourses regulations, developed under Section 28 of the *Conservation Authorities Act*. Any interference with a watercourse, development, including erection, alteration or change of use of a building, or site alterations within a regulated area may require a permit from South Nation Conservation, and restrictions may apply.

Revise as recommended.

21. There appears to be a numbering error as there is no 5.7.3. This is noted for your consideration only.

Comments based on Part 8 of the Ontario Building Code related to drinking water safety

Under Review

22. South Nation Conservation reviewed the proposed minimum lots sizes for lots on partial and private services and has identified a few concerns and is suggesting some amendments to the proposed minimum lot sizes for various servicing scenarios below. SNC notes that we are not the septic approval authority for Edwardsburgh Cardinal and as such we strongly encourage you to discuss these comments and suggestions with the septic approval authority, the Leeds and Grenville Health Unit.

a) South Nation Conservation suggests that minimum lot sizes for lots on partial services in all zones be split into two subsections: lots with municipal sewer services and private wells, and lots with municipal water service and private sewage (septic). This allows for different minimum lot sizes for the two partial service scenarios.



In proposing new minimum lot sizes for partial or private services consideration was given to the minimum lot size required for installation of a septic system including setbacks from wells. Even where lots are serviced by municipal water the installation of septic systems can be prohibited or constrained by the presence of an existing well on the subject or adjoining properties, even if it is not in use, as per the Ontario Building Code. These setbacks are required to ensure a septic system does not contaminate a ground water feature, isn't too close to a property line or a waterbody or watercourse as defined in the Ontario Building Code.

- b) In the Residential First Density Zone minimum lots sizes are proposed as follows:

Single Detached Dwelling:

- Partial service – municipal sewage and private wells – minimum as per existing partial services
- Partial services – municipal water and private sewage (septic) – minimum 0.4 ha
- Private service – 0.4 ha (as currently drafted)

- c) In the Residential Second Density Zone minimum lots sizes are proposed as follows:

Semi-detached

- Partial service – municipal sewage and private wells – minimum as per existing partial services
- Partial services – municipal water and private sewage (septic) – minimum 0.4 ha per semi-detached dwelling
- Private service – 0.4 ha

Note the proposed minimum lot size of 0.4 ha for Partial services – municipal water and private sewage (septic) is based on each semi-detached dwelling being on a separate conveyable lot. This assumption was used to allow for future flexibility if severing the two parts of a single semi-detached building at a future date.

- d) In the Residential Third Density Zone minimum lots sizes are proposed as follows:

Fourplex, Triplex, Townhouse dwelling

- Partial service – municipal sewage and private wells – minimum as per existing partial services



- Partial services – municipal water and private sewage (septic) – for fourplex and triplex - minimum 0.4 ha* total, and for townhouse dwellings minimum 0.4 ha per dwelling unit
- Private service – 0.4 ha*

Note the proposed minimum lot size of 0.4 ha for Partial services – municipal water and private sewage (septic) is based on each townhouse dwelling being on a separate conveyable lot. This assumption was used to allow for future flexibility if severing at a future date.

Apartment dwelling

- Partial service – municipal sewage and private wells – minimum as per existing partial services
- Partial services – municipal water and private sewage (septic) – minimum 0.4 ha* total
- Private service – 0.4 ha*

*An additional footnote is suggested that would identify that the minimum lot size for these development types on partial or municipal services should be minimum 0.4 ha but a larger lot may be required and the minimum lot size should be based on a professional review of the minimum lot size to include the building parking, well (if required), and septic based on the building and density proposed which will affect the size of the building, required parking and size of the required septic system.

e) In the Main Street Commercial zone

- Partial service – municipal sewage and private wells – minimum as per existing partial services
- Partial services – municipal water and private sewage (septic) – minimum 0.4 ha* total
- Private service – 0.4 ha*

*An additional footnote is suggested that would identify that the minimum lot size for these development types on partial or municipal services should be minimum 0.4 ha but a larger lot may be required and the minimum lot size should be based on a professional review of the minimum lot size to include the building parking, well (if required), and septic based on the building and density proposed which will affect the size of the building, required parking and size of the required septic system.

23. South Nation Conservation discussed the minimum required lots sizes for Partial service – municipal sewage and private wells and though no changes to these minimum lot sizes are suggested, our hydrogeologist expressed concern regarding



the density of water taking in small areas if lots of the minimum size identified in the proposed zoning by-law continue to be permitted. SNC strongly encourages undertaking a water quantity assessment to determine the quantity of water available in the aquifers where there are higher densities of wells if that has not yet been undertaken.

Comments on Schedules:

- Revise as recommended. 24. Schedules appear to show watercourses and waterbodies in blue. Watercourses and waterbodies should be added to the legend of all schedules.
- Revise as recommended. 25. The red boundary outlining the map area obscures the floodplain overlay on Schedule D. It is suggested to revise the schedule to ensure the floodplain overlay area is clear.
- Not recommended. 26. Schedule B shows some floodplain overlay outside of the map area boundary. It is suggested to only show the floodplain overlay within the map boundaries on each map for consistency.
- Revise as recommended. 27. On schedule A the boundaries of the overlay requiring reference to the Official Plan are unclear where they are the same as other map lines. For example, the extent of schedule D, zone boundaries etc.

Recommendation

SNC does not object to the proposed comprehensive zoning by-law; however, we recommend that the above comments be considered and incorporated, where appropriate.

I trust the above is to your satisfaction. Should you have any questions please do not hesitate to call our office.

Sincerely,

Alix Jolicoeur
Watershed Planner
South Nation Conservation