

Committee of Adjustment Public Hearing  
Wednesday, May 13, 2015  
Council Chambers, City Hall - 5:00 p.m.

**Agenda**

1. Chair to call the Hearing to Order
2. Amendments/Additions to the Agenda
3. Declarations of Interest
4. Request for Withdrawal or Adjournment
5. Adoption of the Minutes held
6. Application:
  - 1) 50 Bayview Drive, Consent Application – B-22/16SC – 60.84.1984  
50 Bayview Drive, Minor Variance Application – A-39/15 – 60.81.4977  
52 Bayview Drive, Minor Variance Application – A-40/15 – 60.81.4978
  - 2) 210 Martindale Road, Minor Variance Application – A-42/15 – 60.81.4980
7. New Business
8. Date of next Site Tour and Public Hearing is June 4, 2015
9. Adjournment



CITY OF  
ST. CATHARINES

## Technical Report

**Report from** Planning and Building Services, Planning Services

**Date of Report:** May 6, 2015

**Date of Meeting:** May 13, 2015

**Submission(s):** B-22/15SC  
A-39/15  
A-40/15

**Files:** 60.84.1984  
60.81.4977  
60.81.4978

**Subject:** 50 Bayview Drive  
52 Bayview Drive

### Recommendation

That Submission **B-22/15SC** by Bradford Tessman, as outlined in the Notice of Hearing, be approved subject to the following conditions:

1. That, pursuant to subsection 50 (12) of the Planning Act, it is hereby stipulated that subsection 50 (3) or subsection 50 (5) shall apply to any subsequent conveyance of or other transaction involving the identical subject parcel of land. Therefore, the applicant will provide the Secretary-Treasurer with a Solicitor's undertaking that the condition of the Committee of Adjustment will be implemented and that Part 2 will merge with Part 3 and become one parcel of land.
2. The applicant shall be responsible to relocate from Part 2 all associated plumbing and equipment required for continued function of the in-ground pool on Part 1 of the submitted plan, to the satisfaction of the City Engineer.
3. A swimming pool enclosure for the existing in-ground swimming pool on Part 1 of the submitted plan must be erected, in accordance with the City's Fences and Swimming Pool Enclosures By-law 2014-68.
4. The existing shed located at the southeasterly corner of Part 2 on the submitted plan must be removed to the satisfaction of the Chief Building Official.
5. That final approval for all necessary minor variance applications be received.

That Submission **A-39/15** by Bradford Tessman, as outlined in the Notice of Hearing, be approved.

And That Submission **A-40/15** by Janine Hutchison, as outlined in the Notice of Hearing, be approved.

## **Summary**

The purpose of these applications is to facilitate a boundary adjustment between 50 Bayview Drive and 52 Bayview Drive.

Having regard for the matters under subsection 51 (24) and subsection 45 (1) of the Planning Act, staff is satisfied that the proposal is desirable for the appropriate use of the land and that the intent and purpose of the Garden City Plan and Zoning By-law are maintained. The variances are desirable for the appropriate use of the land and are minor in nature.

Staff recommends granting the requested consent and variances, subject to the conditions outlined in the recommendation.

## **Background**

### **Planning Context**

#### **Location**

The subject properties are located on the north side of Bayview Drive. The properties are abutted by single detached dwellings to the south, east and west, and Lake Ontario to the north.

#### **Official Plan**

The Garden City Plan designates the southerly portion of the land as Low Density Residential, which permits a variety of residential dwelling types including the existing single detached dwellings, at a density between 20 and 32 units per hectare, subject to the policies of the Garden City Plan. The northerly portion of the land is designated as Natural Area, which protects and preserves the natural hazard lands associated with the shoreline of Lake Ontario.

Natural hazard lands are also mapped by the Province, the Regional Municipality of Niagara, and the Niagara Peninsula Conservation Authority. This mapping often extends beyond the City's Natural Area designation. The combined furthest extent and limit of this natural hazard lands mapping is identified in the Garden City Plan as the Natural Area Extent Line. Development, redevelopment, site alteration and use of lands within and adjacent to the Natural Area Extent Line is subject to the Natural Area designation policies of the Garden City Plan.

The subject lands are within and adjacent to the Natural Area Extent Line, and as such, the lands designated Low Density Residential are also subject to the policies of the Natural Area designation, which permits a narrow range of uses, including various environmental management uses, and legally existing uses, buildings and structures, including the existing single detached dwellings. Since there is no proposed change of use and all uses currently on site are legal, these policies are not compromised with the approval of this lot boundary adjustment.

### **Zoning By-law**

The southerly portion of the land is zoned Low Density Residential – Traditional Neighbourhood (R2) pursuant to By-law 2013-283, which permits a variety of residential dwelling types, including the existing single detached dwellings. Special Provision 7 also applies to this land, and establishes a maximum building height of 9 metres, in addition to the provisions of the Low Density Residential – Traditional Neighbourhood (R2) zoning. The northerly portion of the land is zoned Conservation / Natural Area (G1), which permits trails, boat ramps, picnic areas and shelters, and essential operations for service infrastructure and utilities. The current uses will continue in accordance with the permitted uses within the R2 zone.

## **Report**

### **Consent**

The proposed consent would permit a boundary adjustment between two properties, known as 50 Bayview Drive and 52 Bayview Drive. There is no new development or redevelopment proposed with this application. The lands will continue to support legally existing uses, buildings and structures. The general land use policies in Section 7 of the Garden City Plan (GCP) state that land assembly and configuration will not detract from the potential development or redevelopment on adjacent properties, or create isolated parcels.

The existing lots in this neighbourhood that abut Lake Ontario, including the subject lands, have a long and narrow configuration. The boundary adjustment is between rear yards and so will have no impact on the streetscape. Staff is satisfied the proposed consent permits a lot configuration that meets the intent of the GCP, is compatible with the surrounding neighbourhood, and suitable for the use of the land. No adverse impacts on existing land uses are anticipated. Staff is satisfied the proposal meets the criteria of subsection 51 (24) of the Planning Act.

### **Variances to Increase Maximum Lot Area**

Variances for an increase of the Low Density Residential – Traditional Neighbourhood (R2) maximum lot area are requested for both the remnant parcel (Part 1) and the assembled lot (Parts 2 and 3), in order to facilitate the concurrent consent application. The intent of the maximum lot area requirement is to implement the density range set by GCP land use policies. In this context, no new development is proposed and the existing density between the two lots is maintained.

The long and narrow lot configuration in this neighbourhood is primarily due to the rear yards being comprised of natural hazard lands associated with the shoreline of Lake Ontario, where development of the lands is prohibited. Further, the need for adequate frontage to support low density residential land uses led to larger lot areas.

### **Variances Requested for Parts 2 and 3**

There are five additional variances requested for the assembled lot. Variances 3, 4 and 6 are necessary to recognize the location of the existing dwelling, variance 5 is to recognize that no parking is provided on site, and variance 1 is to recognize the existing



frontage. These variances represent a long-standing situation and will have no impact on the surrounding area or streetscape. They are necessary in order to facilitate the concurrent consent application.

Staff is satisfied the variances meet the intent and purpose of the GCP and Zoning By-law, are appropriate for the existing land uses, and maintain the character of the surrounding neighbourhood. Thus, they are minor in nature, and meet the criteria under subsection 45 (1) of the Planning Act.

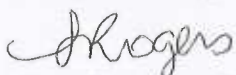
The applicant is advised that they must relocate all of the swimming pool equipment and servicing from Part 2 onto Part 1 of the submitted sketch. The applicant must ensure that the existing swimming pool located on Part 1 of the submitted sketch is enclosed in accordance with the City's Fences and Swimming Pool Enclosures By-law 2014-68.

The applicant is advised that the existing shed located at the southeasterly corner on Part 2 of the submitted plan, must be removed to the satisfaction of the Chief Building Official. The shed may be relocated on Part 2 or Part 3 if it is in compliance with Zoning By-law 2013-283.

## **Conclusion**


Staff is satisfied that the proposed consent permits a lot configuration that is compatible with the surrounding neighbourhood and will continue to be suitable for the existing land uses. The proposed variances are desirable and appropriate for the use of the land, meet the intent of the Garden City Plan and Zoning By-law, and thus are minor in nature. Due regard has been had to the criteria under subsections 51 (24) and 45 (1) of the Planning Act. Staff recommends granting the consent and variances, subject to the conditions outlined in the recommendation.

### **Prepared by:**



Sara Rogers, CPT  
Planning Technician

### **Submitted by:**



Margaret Josipovic  
Development Agreement Coordinator

### **Approved by:**



Judy Pihach, M.C.I.P., R.P.P.  
Manager of Planning Services

May 8, 2015

File No. MPR 2.13 & 3.13

St. Catharines  
Committee of Adjustment  
50 Church Street, P.O. Box 3012  
St. Catharines, ON L2R 7C2

Attn: Elaine Munro, Secretary-Treasurer

Subject: A-39/15, A-40/15 and B-22/15SC  
50 & 52 Bayview Drive, St. Catharines

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The Niagara Peninsula Conservation Authority (NPCA) has reviewed the above noted applications and offers the following for your information.

The consent is for a boundary adjustment to sever 543 m<sup>2</sup> of land (Part 2) to be added to the southerly abutting lot (Part 3) known as 52 Bayview Drive. A 1,481 m<sup>2</sup> remnant parcel (Part 1) with an existing single detached dwelling to be retained. The variance application A-39/15 has been made for an increase of maximum lot area per dwelling unit from 465 m<sup>2</sup> to 1,481 m<sup>2</sup> at 50 Bayview Drive. Application A-40/15 has been made for:

- 1) A decrease of the minimum frontage from 9 metres to 8.8 metres.
- 2) An increase of the maximum lot area per dwelling unit from 465 m<sup>2</sup> to 881 m<sup>2</sup>.
- 3) A reduction of the minimum westerly interior side yard setback to the dwelling from 1.2 m to 0.9 m.
- 4) A reduction of the minimum easterly interior side yard setback to the dwelling from 1.2 m to 0.8 m.
- 5) A reduction of the minimum parking spaces from 1 to 0.
- 6) A reduction of the minimum easterly interior side yard setback to the 1 metre high deck from 1.2 m to 0.4 m.

#### **NPCA Regulations:**

The subject property falls within the limit of the Regulated Shoreline associated with Lake Ontario. It is the Conservation Authority's mandate to ensure protection to life and property for development in or adjacent to flood prone areas and erosion hazards. As such, this property would be subject to the Authority's "Regulation of Development, Interference with Wetlands and Alterations to Shoreline and Watercourses" (O. Reg. 155/06).

In accordance with Policy 4.2, boundary adjustments may be permitted within the hazard limit provided both existing lots currently contain a portion of the hazard and the lot addition would not necessitate any works within the Hazard Limit. Following review of NPCA mapping, the Plan provided ('Sketch' by Chambers and Associates, dated February 13, 2015) and a site visit (March 31, 2015) for the proposed lot line adjustment, the NPCA is satisfied that both properties currently contain a portion of the Shoreline Hazard associated with Lake Ontario and the lot addition would not necessitate any works within the Shoreline Hazard.

#### **Niagara Region Natural Heritage Comments:**

In addition to commenting on proposals with respect to the Conservation Authority's regulations noted above, this agency has entered into a Memorandum of Understanding (MOU) with the Region of Niagara. In accordance with this MOU, the Conservation Authority has a responsibility to review and provide comments on planning applications as they relate to the Natural Environment on the Region's behalf. As

such, the following comments pertain to the Core Natural Heritage System Policies within the Regional Policy Plan.

The Region's Core Natural Heritage Mapping identifies the portions of the subject property as being an Environmental Conservation Area (ECA) for Significant Woodland and Valley Shoreline. Policy 7.B.1.11 of the Region's Policies permits development within and adjacent to (within 50 metres) an ECA if it has been demonstrated that there will be no significant negative impact to the Core Natural Heritage System. The subject application involves a boundary adjustment only, and any new development proposed on site will require NPCA review and approval. Staff also note that the subject parcels of land are of sufficient size to ensure all required buffers are adequately met without negatively impacting the natural features.

**Conclusion:**

Based on the above, the NPCA offers no objections to the proposed lot boundary adjustment and reduction in minimum lot area. NPCA and Regional Policies typically discourage new lot lines through regulated features. However, the NPCA notes that this proposal is for a boundary adjustment only at this time and no new lot is being created. In addition, both properties are currently impacted by the hazards associated with the Shoreline and there will be sufficient room on each lot outside of the required setbacks to accommodate any future development without negatively impacting the regulated features.

Lastly, due to the features identified on the properties, any future works proposed on either property will require NPCA review and approval prior to the commencement of the works on site and any works proposed within a regulated feature or its buffer may require a work permit from this office, as well as further studies, in accordance with the Authority's "Regulation of Development, Interference with Wetlands and Alterations to Shoreline and Watercourses" (O. Reg. 155/06)".

I trust the above will be of assistance to you. Please do not hesitate to call should you have further questions in this matter.

Yours truly,



Taya Devlin

Planning Approvals Analyst (ext. 262)

Cc: Pat Busnello, Senior Development Planner, Niagara Region



# 50 & 52 Bayview Drive, St. Catharines



0.1 0 0.03 0.1 Kilometers

This map is for illustrative purposes only. Information contained hereon is not intended to constitute advice, is not a substitute for professional review or a site survey, and is subject to change without notice. The NPCA takes no responsibility for, nor guarantees, the accuracy of the information contained on this map. Any interpretations or conclusions drawn from this map are the sole responsibility of the user. THIS IS NOT A PLAN OF SURVEY.



## Legend

- Shoreline Flood/Erosion Invent
- Regulatory Flood Hazard Limit
- Great Lakes Regulatory Flood Leve
- Toe of Bluff
- Stable Slope Allowance
- Regulatory Erosion Hazard Limit
- Regulatory Dynamic Beach Reache
- Road Edges 2002
- RMN Streets Labels
- RMN Assessment Parcels
- MEMBER MUNICIPALITY Lab
- Member Municipal Boundary L
- ECA: Valley Shoreline Buffer
- ECA: Significant Woodlands
- Contours - 1m Region 2002
- Contours - 1m Watershed 200
- NPCA Watershed Municipalite
- NPCA Extended Context Area
- Surround
- Norfolk, New York; Grand Island, B
- Lake Erie; Lake Ontario; Niagara R
- Surround - Hamilton/Halton
- 2010 Niagara Air Photos

1:1,030  
 5/8/2015



## Notes

Minor Variance





CITY OF  
ST. CATHARINES

## Technical Report

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**Report from** Planning and Building Services, Planning Services

**Date of Report:** May 6, 2015

**Date of Meeting:** May 13, 2015

**Submission(s):** A-42/15

**File:** 60.81.4980

**Subject:** 210 Martindale Road

### Recommendation

That Submission **A-42/15** by 1834431 Ontario Inc., as outlined in the Notice of Hearing, be approved.

### Summary

The purpose of the application is to request an expansion of an existing rear deck.

Having regard for the matters under section 45 (1) of the Planning Act, Staff is satisfied that the proposal is desirable for the appropriate use of the land and that the intent and purpose of the Official Plan and Zoning By-law are being maintained. The proposal also maintains the intent and purpose of the Provincial Policy Statement and does not conflict with any applicable Provincial plans. The variance is desirable for the appropriate use of the land and is minor in nature.

Staff recommends the granting of the requested variance.

### Background

#### Planning Context

##### Location

The subject property is located on the east side of Martindale Road, north of Erion Road. The property is abutted by a range of commercial and employment uses to the north, west, and south with natural areas (Twelve Mile Creek) to the south.

##### Official Plan

The Garden City Plan designates the land as Business Commercial Employment, which permits a broad range of industrial and industrial service uses. Retail and service commercial uses, including a restaurant, are permitted provided they are subordinate to the principal employment use of the property and generally do not exceed 30% of the floor area of the building.

The rear of the property is designated Natural Area. This designation permits the conservation of land and generally corresponds with areas below the top of the valley bank.

#### **Zoning By-law**

The subject land is zoned Business Commercial Employment (E1-88) and Conservation / Natural Area (G1) pursuant to By-law 2013-283. The E1 zone permits a variety of employment uses. The G1 zone corresponds with the Natural Areas designation in the Garden City Plan and requires the conservation of land. This zone generally corresponds with areas below the top of the valley bank. Special provision 88 permits a restaurant with a maximum gross leasable floor area of 307 square metres, subject to a minimum of 73 parking spaces. The by-law's definition of gross leasable floor area includes interior space only. The deck and proposed expansion does not contribute towards the gross leasable floor area.

### **Report**

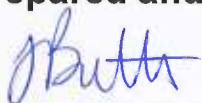
The variance is requested to permit an expansion of the existing deck. The requested variances seek reductions from the setback of a platform structure from the north and south lot line. Staff note that given the irregular shape of the lot, both of these setbacks generally relate to the rear of the property. The applicant has additionally requested a reduction in the maximum area of a platform structure over 1.2m above grade. The proposed deck expansion is located exclusively in the Business Commercial Employment designation and E1-88 zone.

All of the requested variances relate to the Platform Structures (Section 2.10.2) Section of the Zoning By-law. The purpose and intent of these provisions is to insure compatibility between platform structures and adjacent uses by limiting overlook. As the subject property directly abuts the natural areas associated with Twelve Mile Creek, staff do not anticipate an incompatibility between the uses. As no interior expansion is proposed, the deck expansion will not increase the gross leasable floor area of the restaurant use. Subject to any comments provided the Niagara Peninsula Conservation Authority; Staff are supportive of the requested variance.

### **Conclusion**

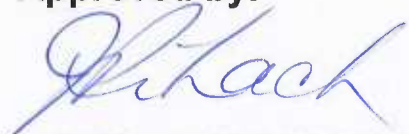
In summary, Staff is satisfied that the variance is minor in nature, appropriate for the use of the land, and that the intent and purpose of the Official Plan and Zoning By-law are being maintained. It is the opinion of Staff that the variance should be granted.

**Prepared and Submitted by:**



Jessica Button, M.C.I.P, R.P.P.

**Approved by:**



Judy Pihach, M.C.I.P, R.P.P.  
Manager, Planning Services



May 8, 2015

File No. MPR 3.13

St. Catharines  
Committee of Adjustment  
50 Church Street, P.O. Box 3012  
St. Catharines, ON L2R 7C2

BY EMAIL ONLY

Attn: Elaine Munro, Secretary-Treasurer

Subject: A-42/15 210 Martindale Road, St. Catharines

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The Niagara Peninsula Conservation Authority (NPCA) has reviewed the above noted application and offers the following for your information. This application has been made for:

1. A reduction of minimum setback from the northerly rear lot line of the proposed extension of the platform structure over 1.2 metres high above grade from 4.5 metres to 1.04 metres.
2. A reduction of the minimum setback from the southerly rear lot line of the proposed extension of the platform structure over 1.2 metres high above grade from 4.5 metres to 2.48 metres.
3. An increase of the maximum area of the proposed extension of the platform structure over 1.2 metres high above grade from 30 m<sup>2</sup> to 163.33 m<sup>2</sup>.

The subject property is located adjacent to Twelve Mile Creek and is therefore impacted by the valley slope and Provincially Significant Wetland (PSW) associated with the Creek. As such, the property is subject to the Authority's "Regulation of Development, Interference with Wetlands and Alterations to Shoreline and Watercourses" (**O. Reg. 155/06**).

The variances of the subject application are requested for the proposed extension of an existing deck. The NPCA has recently (April 2, 2015) reviewed the proposed deck extension through an application for Site Plan Approval. NPCA requirements regarding the above noted regulated features impacting the property for the proposed development are being reviewed through the Site Plan application. The subject application is made to facilitate the proposed deck extension. The Authority offers no objections to the approval of the subject application.

Please note, although the NPCA offers no objection to the subject application, the Authority does have outstanding requirements associated with the Site Plan Application. The NPCA requires the following prior to further review of the Site Plan Application and commencement of works on site:

1. That the applicant provide details for how the erosion problems on site are going to be resolved. Please note that corrective works may require a permit from this office.
2. That a note be added to the plan to indicate that stormwater runoff discharges over the bank in a sheet flow manner.
3. Due to the location of the site in a NPCA regulated area, the NPCA will require a permit be obtained from this office for the proposed patio extension prior to construction.

Lastly, please note that due to the identified features on the property, any future works proposed will require NPCA review prior to the commencement of the works on site and may require further studies and a work permit from this office in accordance with the Authority's "Regulation of Development, Interference with Wetlands and Alterations to Shoreline and Watercourses" (**O. Reg. 155/06**).

I trust the above will be of assistance to you. Please do not hesitate to call should you have further questions in this matter.

Yours truly,

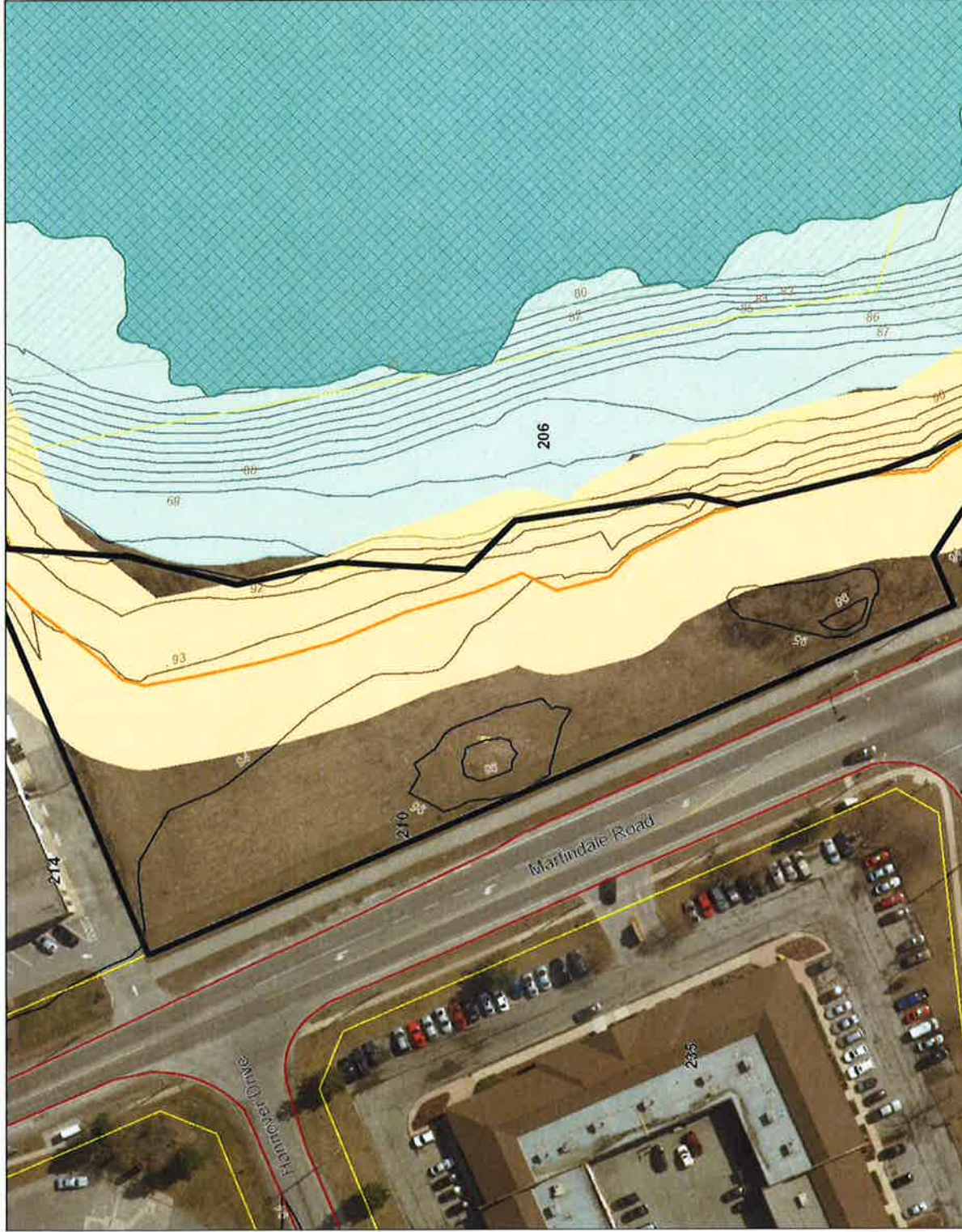
A handwritten signature in black ink, appearing to read "Taya Devlin". The signature is fluid and cursive, with a horizontal line extending from the end.

Taya Devlin

Planning Approvals Analyst (ext. 262)

Cc: Pat Busnello, Senior Development Planner, Niagara Region

# 210 Martindale Road, St. Catharines



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0.1 0.03 0.1 Kilometers



## Legend

- Top of Slope Features
  - Stable
  - Unstable
- Top of Slope Allowance
- OWES WETLANDS
  - Non-Provincially Significant Wetland
  - Provincially Significant Wetland
- Regulation Wetlands
- Wetland Allowance
- Road Edges 2002
- RMN Streets Labels
- RMN Assessment Parcels
- EPA: Provincial Life ANSI
- ECA: Significant Woodlands
- 2K HydroPoly
- 2K Hydrography
- Contours - 1m Region 2002
- Contours - 1m Watershed 2002
- NPCA Watershed Municipality
- NPCA Extended Context Area
- Surround
  - Norfolk, New York; Grand Island, B
  - Lake Erie; Lake Ontario; Niagara R
- Surround - Hamilton/Halton
- 2010 Niagara Air Photos

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3/31/2015



## Notes

Site Plan Application