

TOWNSHIP OF SOUTH FRONTENAC

BY-LAW NUMBER 2013-52

BEING A BY-LAW TO AUTHORIZE THE MAYOR AND THE CLERK TO EXECUTE A SITE PLAN AGREEMENT BETWEEN THE CORPORATION OF THE TOWNSHIP OF SOUTH FRONTENAC AND 1073650 ONTARIO INC.

WHEREAS a Site Plan Agreement has been prepared to the satisfaction of the Township of South Frontenac;

NOW THEREFORE THE CORPORATION OF THE TOWNSHIP OF SOUTH FRONTENAC BY ITS COUNCIL, HEREBY ENACTS AS FOLLOWS:

1. THAT the Mayor and the Clerk are hereby authorized to execute a Site Plan Agreement between the Corporation of the Township of South Frontenac and 1073650 Ontario Inc., a copy of which is attached hereto and forms part of this by-law.
2. THAT this By-law and Agreement shall be registered on the title of the property described as Parts 6 to 11 on Plan 13R-19911; Sweetfern Lane; Part Lot 23, Concession III, Storrington District, Township of South Frontenac.
3. THIS BY-LAW shall come into force and effect in accordance with section 41 of the Planning Act 1990, either upon the date of passage or as otherwise provided by the said section 41.

Dated at the Township of South Frontenac this sixth day of August, 2013.

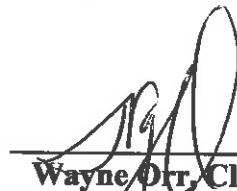
Read a first and second time this sixth day of August, 2013.

Read a third time and finally passed this sixth day of August, 2013.

**THE CORPORATION OF THE
TOWNSHIP OF SOUTH FRONTENAC**



Gary Davison, Mayor



Wayne Orr, Clerk-Administrator

**THIS SITE PLAN AGREEMENT made this day
of August, 2013.**

BETWEEN:

1073650 ONTARIO INC.

hereinafter called the "Owner"

OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWNSHIP OF SOUTH FRONTENAC

hereinafter called the "Municipality"

OF THE SECOND PART

WHEREAS the Owner is the registered owner in fee simple of certain lands described in Schedule "A", attached hereto, located in the Township of South Frontenac (the "Owner's Land");

AND WHEREAS the Municipality is authorized to enter into this agreement and register it against the title to the Lands pursuant to section 41 of the Planning Act and section 6.17 of the Township of South Frontenac Official Plan;

AND WHEREAS the Municipality has passed by-law No. 2003-75 to designate all of the Township of South Frontenac as a "Site Plan Control Area";

NOW THEREFORE, THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements contained herein, the parties agree each with the other as follows:

In this Agreement:

- a) *"Owner" includes a mortgagee in possession, a tenant in possession pursuant to a leasehold interest, and encumbrancer in possession and may mean more than one Owner specified in the Certificate of ownership.*
1. The Owner covenants that the Owner is the Owner in fee simple of the Owner's land.
2. The obligations imposed by this Agreement affect the land described in Schedule "A" hereto and any restrictive covenants expressed herein run with the land and bind successors in title to the said property as well as the successors and assigns of the Owner.
3. The encumbrancer agrees to satisfy all the obligations imposed pursuant to this document if it should enter into possession of the said land.
4. The following schedules are attached to and form part of this agreement and no new building, structure or other facility shall be erected, altered or placed on the said land except in accordance with the attached schedules which consist of:

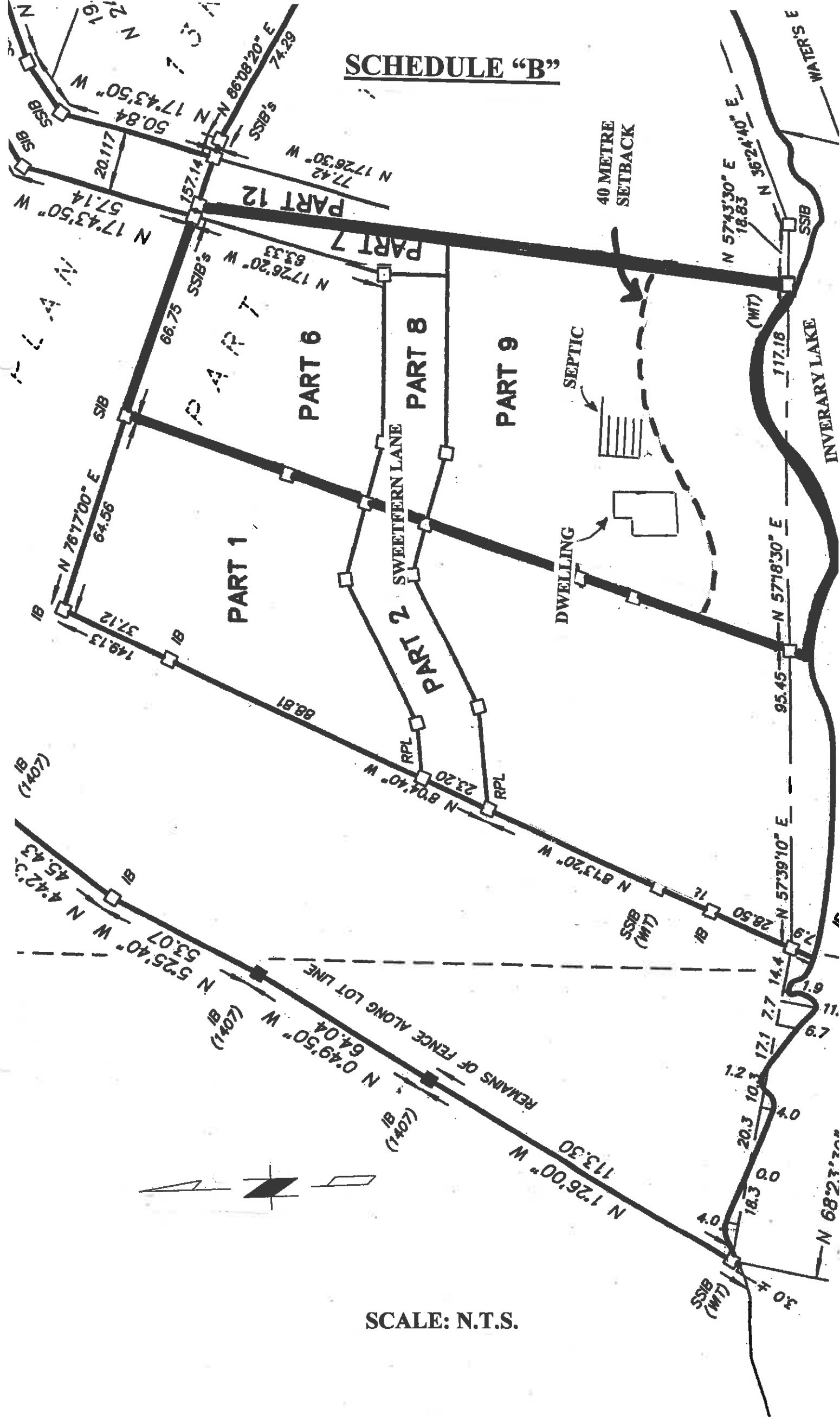
- A. Legal Description of Lands
 - B. Site Plan
 - C. Environmental Site Evaluation Report Dated June 20, 2009 prepared by Ecological Services and recommendation report dated June 14, 2009 from the Cataraqui Region Conservation Authority
5. The Owner shall perform all the work and provide all the materials necessary for the construction of all principal and accessory buildings and private sewage facilities. All buildings existing as of the date of this agreement shall be removed prior to any new building permit being issued.
 6. The Owner may construct a single detached dwelling and accessory structures located a minimum of 40 metres (131 ft.) from the highwater mark of Inverary Lake and with a septic system located in the rear yard ie., behind the dwelling from the lake, generally as shown on Schedule "B".
 7. The access easement that provides access to the subject property shall be constructed to minimum 'Township Standards' for new private lanes and it shall be recognized that the lane is not subject to any maintenance of other services provided by the Municipality.
 8. Development of the lot shall be in accordance with the recommendations from the Environmental Site Evaluation Report and the Cataraqui Region Conservation Authority as attached hereto as Schedule "C".
 9. In the event of a sale of the improved lands, the new Owner will assume full and complete responsibility for the continuing obligations under this Agreement. The enforcement of this Agreement is the responsibility of the Municipality.
 10. The Agreement shall be registered against the title of the Lands and the Municipality shall be entitled to enforce its provisions against the Owner and any and all subsequent owners of the Lands.
 11. In the event that the Owner fails to install or maintain the facilities covered by this Agreement, then, upon the Chief Building Official or designate, giving seven days written notice by pre-paid registered mail to the Owner, the municipality, through it's employees, agents or contractors, may, without further notice, enter upon the lands and proceed to supply all materials and to do all the necessary inspections and works in connection with the facilities including the repair or reconstruction of faulty work and the replacement of materials which are not in accordance with plans or specifications and to charge the cost thereof, together with the cost of engineering and any other expenses incurred by the municipality, against the Owner. Such entry and work shall not be deemed as acceptance or assumption of said facilities nor an assumption by the Municipality of any liability. It is expressly agreed that the Owner or any person in possession shall not question the cost incurred by the Municipality for labour, materials or any other costs incidental to do the said work and this provision shall be deemed to operate as an effective estoppel in judicial proceedings if such costs are challenged or placed in question. The Owner agrees to permit the Chief Building Official, or agent, to enter onto the Lands at any time to inspect the work. The Municipality may perform any of the required services and collect the cost for the enforcement of this Agreement against the said Lands from the security.

SCHEDULE "A"

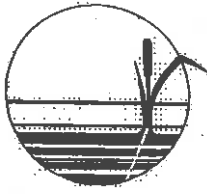
LEGAL DESCRIPTION OF LANDS

**Parts 6 to 11, Plan 13R-19911; Sweetfern Lane; Part of Lot 23, Concession III,
Storrington District, Township of South Frontenac**

SCHEDULE "B"



SCALE: N.T.S.



Ecological Services
R.R. #1, 3803 Sydenham Road
Elginburg, Ontario K0H 1M0
Phone: (613) 376-6916; Fax: (613) 544-0072
E-mail: ecoserv@kos.net

SCHEDULE "C"

June 25, 2009

**ENVIRONMENTAL SITE EVALUATION REPORT
&**

REPORT FROM CARARAQUI REGION CONSERVATION AUTHORITY
Mr. Gary Beach
1073650 Ontario Inc.
P.O. Box 98
Battersea, Ontario K0H 1H0

**RE: WATER QUALITY REVIEW
INVERARY LAKE**

Further to the Environmental Impact Assessment we prepared for your proposed severances on Inverary Lake, you requested that we gather additional information regarding water quality in light of the concerns raised at the public meeting.

Concerns regarding large-scale development were part of the impetus for the Collins Watershed Study in the early 1990s. At that time, Dillon (1992) reported that total phosphorous concentrations in Inverary Lake exceeded the provincial guidelines, and suggested that additional development adjacent to the lake should show that no further nutrient loading will occur. At that time, lake phosphorous levels were reported to range from 14 to 46, with a mean concentration of 29 µg/L, based on limited phosphorous data taken over ten years earlier (Dillon 1993). This level of Total Phosphorous (TP) is consistent with a eutrophic (nutrient-rich) system. Secchi disk data (a measure of water clarity) had mean values of 2.2 m (1977), 1.8 m (1979), and 2.0 m (1990). Dillon concluded that the major source of nutrients in this system were natural phosphorous from the land, agricultural activities, and precipitation.

The Ministry of the Environment (MOE) has little additional information from that time. Victor Castro (MOE, personal communication) provided the information summarized in Table 1. The available information is scanty, and is consistent with the summarized reports in Dillon (1992).

YEAR	MEAN SECCHI DEPTH (m)	MEAN CHLOROPHYLL A (µg/L)	TOTAL PHOSPHORUS (µg/L)
1977	2.2	21.0	--
1979	1.8	11.3	29
1990	2.0	14.0	--

MOE runs a Lake Partner Program, where the goal is to protect the quality of Ontario's inland lakes by involving citizens in a water quality monitoring program. This is a province-wide, volunteer-based, water-quality monitoring program. Volunteers collect Total Phosphorus samples and make monthly water clarity observations on their lakes. This information allows the early detection of changes in the nutrient status and/or the water clarity of the lake due to the impacts of shoreline development, climate change and other stresses.

Unfortunately, there has been no participation in the program in recent years on Inverary Lake. The only available program data from Inverary Lake are from 1996 and 1997, summarized in Table 2.

Station	Year	TP ($\mu\text{g/L}$)	Number of Samples	Annual Average Ice-free Secchi Depths (m)
7072	1996	29	5	2.0
7072	1997	28	1	2.7

The purpose of the Lake Partner program is to gain an understanding of Ontario's lakes, and it is noted that by sampling phosphorous each year, it is possible to detect an increase in the nutrient status of a lake. The Ministry of the Environment cautions that: "*it is important to note that several years of data must be collected to first observe the normal, between-years-differences before a trend can be identified*" (emphasis mine).

The data in Table 1 appear to show minor improvement in water quality of Inverary Lake (a decrease in Phosphorous loading, and an increase in water clarity), but no measure of error was provided, and the improvement is likely not a statistically significant one, particularly since TP from 1997 was based on one sample only. As well, since the data are over ten years old, they tell us little about the current water quality conditions. What is notable is that the 1996/1997 values are very consistent with what was reported in 1977, 1979 and 1990.

Since the province cut back on surface water sampling in the 1980s, there are no other data available to assess the specific status of water quality in Inverary Lake. If area residents have had significant, long-standing concerns about lake water quality, it is difficult to understand the lack of participation in the Lake Partner Program.

Volunteer involvement would require the collection of one sample each month (May-October) for lakes that are not on the Canadian Shield. These samples are returned (postage paid) to the Dorset Environmental Science Centre for analysis. In addition, volunteers are asked to make a minimum of 6 (monthly) water clarity observations using a Secchi disk. These observations are mailed to Dorset at the end of the summer.

Conclusion: We can find nothing to suggest a serious concern about water quality, and no indication of declining water quality over the past 30 years; the number of years since

there has been any participation in the Lake Partner Program suggests a very recent concern on the part of area residents. A number of recommendations were put forward in the EIS to address water quality protection (among other natural heritage values):

1. The lots are large (approximately 5.0 acres/2 ha compared to the minimum 10,000 m²/1 ha required by the Zoning By-law for the Township of South Frontenac).
2. The water frontage is large (meeting the 300 ft/91 m minimum required by the Zoning By-law).
3. The setback from the high water level of Inverary Lake has been recommended at 40 and 45 m (varying with the specific characteristics of the lots), exceeding the minimum 30 m required in the Zoning By-law.
4. The setback area is being maintained as an *effective* buffer through restrictions on the clearing of vegetation.
5. Septic systems will be set even further back on the new lots, and the terrain is such that their discharge will initially be away from the lake, resulting in a long flow path before reaching the lake. It is very unlikely that these systems would result in any significant increase to the nutrient load of Inverary Lake.

In 1979, MOE concluded in a trophic status assessment of Inverary Lake that: “Although Inverary Lake is hydrologically sensitive to additional nutrient input, shoreline development is not likely to impact on water quality as the lake already receives a high rate of nutrient supply from agricultural drainage.” Dillon (1992) agreed that the major source of nutrients in this system were natural phosphorous from the land, agricultural activities, and precipitation. And in 2009, Castro (personal communication) suggests that there is no reason to believe that the situation has changed: Inverary Lake is a naturally eutrophic system, in which the Ontario drinking water guidelines (of 20 µg/L TP) are exceeded due to natural phosphorous loading from the watershed, and there is little development on the lake.

In light of the large lot size proposed, the very low density of development that would result, the substantial setbacks from the water, and the requirement that the buffer effectiveness be maintained by ensuring vegetation cutting is kept to a minimum, it is my opinion that the proposed severances will have no significant impact on the water quality of Inverary Lake.

Contacts, References & Literature Cited:

Castro, Victor. 2009. Personal communication with water quality professional at the Ministry of the Environment, Kingston office, Kingston, Ontario. 613-549-4000.

Dillon, M.M., Ltd. 1992. Collins Watershed Study Report: Phase 1. Prepared December 1992 for the Cataraqui Region Conservation Authority, Glenburnie, Ontario. 170 pp., plus appendices.

Dillon, M.M., Ltd. 1993. Collins Watershed Study Report: Phase 1. Prepared May 1993 for the Cataraqui Region Conservation Authority, Glenburnie, Ontario. 196 pp., plus appendices.

Ministry of the Environment. Web site regarding the Lake Partners water sampling program is found at: < <http://www.rideau-info.com/documents/lakepartner-2002.pdf>>.

Respectfully submitted,



Mary Alice Snetsinger


CATARAQUI REGION CONSERVATION AUTHORITY

1641 Perth Road, P.O. Box 160 Glenburnie, Ontario K0H 1S0

Phone: (613) 546-4228 Fax: (613) 547-6474

E-mail: crca@cataraquiregion.on.ca Website: www.cataraquiregion.on.ca

June 11, 2009

File: SEV-FRS

Sent by fax

Ms. Anne Levac, Planning Assistant
 Township of South Frontenac
 P.O. Box 100
 Sydenham, ON K0H 2T0
 (613) 376-3027

Dear Ms. Levac:

Re: Additional Comments
Applications for Consent to Sever S-20-09-S, S-21-09-S, S-22-09-S (Ilan)
Lot 23, Concession 3; Storrington District
Off Round Lake Road / Inverary Lake

Further to our letter dated June 10, 2009, staff of the Cataraqui Region Conservation Authority (CRCA) have reviewed a revised Environmental Site Evaluation (Ecological Services, dated June 11, 2009) and provide the following comments for the Committee's consideration.

Staff are satisfied with the revised report as it has adequately addressed the issues relating to the proposed "no-cut zone" and the presence of the fern swamp area.

Staff have no objection to applications S-20-09-S, S-21-09-S and S-22-09-S provided that the following conditions of approval be required:

- 1) That all buildings and structures located on the proposed lots to be severed are removed
- 2) That the recommendations from page 6 of the Environmental Site Evaluation (Ecological Services, June 11, 2009) be incorporated into a development agreement to be entered into between the Township and landowner of the lots to be severed, namely that:
 - Placement of the access road must be determined in consultation with the CRCA and should be located outside of the swamp area, along the northern property boundary for the lots to be severed

Ms. Levac (S-20-09-S, S-21-09-S, S-22-09-S)
June 11, 2009

- Dwellings and septic systems be located a minimum of 5 m from the swamp area
 - Sedimentation controls must be implemented during culvert upgrading to the existing access road
 - Setbacks of 40 m from the highwater mark of Inverary Lake will be required for Lots 1 and 2 and a setback of 45 m will be required for Lot 3
 - Alteration to the soil mantle and vegetation should be prohibited within 30 m of the shoreline for the lots to be severed with the exception of limited removal of dead or diseased trees and for a 4 m access path to the lake
 - A survey shall be completed prior to the development of Lot 1 demonstrating that there is a suitable building envelope (for a dwelling, septic system and parking area) south of the swamp area
- 3) That future development on the lots to be severed occur through Site Plan Control, for which approval by the CRCA will be required.
- 4) That permission from the CRCA under Ontario Regulation 148/06: Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses, be required prior to any development or site alteration within 120 m of the Provincially Significant Wetland and for any in-water works including crossings for driveways through the swamp area
- 5) That future division of land on the lot to be retained occur through a Plan of Subdivision

Please inform this office in writing of any decision made by the Committee with regards to these applications. If you have any questions please contact the undersigned at (613) 546-4228 extension 258 or by email at mdakin@cataraquieregion.on.ca.

Yours truly,



Michael Dakin, M.Pl.
Ecological Planner, Interim

cc: Mary Alice Snetsinger, Ecological Services, via fax (613-544-0072)

attachment: Excerpt from Environmental Site Evaluation (pg. 6 Recommendations)