



February 2, 2022

UPDATED: February 28, 2022

Mr. James Griffin, Intermediate Planner  
Approvals, Development Services Department  
The Corporation of the County of Prince Edward  
280 Main Street, 2<sup>nd</sup> Floor  
Picton, Ontario  
K0K 2T0

Dear James:

**RE: Official Plan and Zoning By-Law Amendment Applications, and  
Subdivision and Condominium Approval Applications;  
Part of Lots 64 and 65, Concession Bayside, former Township of North  
Marysburgh, Prince Edward County; 1041 County Road 7 (Cressy Bayside  
Estates Inc.)**

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Further to your letter dated October 15, 2021 regarding the above, please find below the consultant team's responses to issues identified by municipal staff and peer reviewed comments. In addition, the following is attached as part of this submission:

- Revised Environmental Impact Study, prepared by Ainley Group, dated January, 2022;
- Response to Environmental Impact Study Review Comments, prepared by Ainley Group; dated January 27, 2022;
- Emergency Access Review letter, prepared by Ainley Group; dated January 11, 2022;
- Traffic Review letter, prepared by Ainley Group; dated January 20, 2022;
- Stormwater Management Brief, prepared by Ainley Group; dated January, 2022;
- Geotechnical Report, prepared by Ainley Group; dated January 27, 2022;
- Response to Geotechnical Peer Review, prepared by Ainley Group;
- Response to Hydrogeology and Terrain Analysis Technical Review Comments, prepared by BluMetric Environmental; dated January 27, 2022;

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- Revised Draft Plan of Subdivision, prepared by RFA Planning Consultant Inc.; dated February 26, 2022;
- Lot Grading Plan, prepared by Ainley Group; dated January 20, 2022.

### Planning Rationale/Draft Plan of Subdivision and Condominium

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1. *Part III Section 1.3 of the County Official Plan contains policies for The Bay of Quinte Remedial Action Plan. The subject lands fall within the Bay of Quinte. Section 1.3.2 b) states that the protection of fish and wildlife and shorelines along the Bay of Quinte in as natural a state as possible. Please outline how the proposed applications are consistent with this policy.*
  - The land adjacent to the shoreline will be zoned 'LSR-XX-Limited Service Residential' zone with special provisions. The top of bank has not been surveyed, therefore in accordance with the EIS, the proposed LSR-XX zone will stipulate that a 30m naturalized buffer shall be provided adjacent the 100 year flood line, and no alteration of the soil or vegetation is permitted within this area. In addition, a 6m building setback will be provided from the 30m buffer. No building permits will be issued within this buffer area.
  - In response to concerns from Quinte Conservation, the area of infiltration for the level spreaders will not be located within this buffer area. The Drainage Plan prepared by Ainley Group has been revised to reflect this amendment.
2. *Part III 4.7.6 of the County Official Plan requires a dedication of Five Percent of land dedication in the case of new Residential Development. Please update the plan to reflect the inclusion of a parkland block which includes parking at the road and a walkway block to the water.*
  - Section 4.7.6 also states that Council may accept "cash-in-lieu of parkland payment when deemed appropriate, which is in accordance with the Planning Act. While recognizing that parkland dedication is a municipal decision, we are aware of many instances where the municipality has elected to take the cash-in-lieu of parkland payment.
  - Given further consultation with County Planning Staff, it was determined that cash-in-lieu of parkland payment is appropriate.
3. *Part II Section 2.6.3 of the County Official Plan states that where a multi-lot development containing six or more residential units are proposed to be developed in the form of detached dwellings within a plan of condominium full communal servicing will be required where no municipal water service is available. The proposed development is being proposed to be accessed and developed through a plan of condominium as such relief from this section is required.*

- It is understood that the appropriate referenced section is Part III Section 2.6.4. In our opinion, this section was intended to apply to a traditional Plan of Condominium.
  - This project is being developed by way of Plan of Subdivision which will create the 8 building lots. These lots are not Units within a condominium and therefore the detached dwellings to be constructed on these lots will not be “within a plan of condominium” as stated in the OP. Each owner of a lot on the plan of subdivision will however, also have an ownership interest in the common element condominium which will own the road. Therefore, Section 2.6.3 of Part III is not applicable to this application. This interpretation has been confirmed with Kirsten Musgrove, the solicitor for the project.
  - It should be noted that when the 1993 PEC OP was adopted, alternative forms of condominium registration had not been formulated by the provincial legislation, and “condominiums” were wholly applied to traditional forms of condominium. All references in the 1993 PEC OP would have been for a traditional form of condominium registration.
  - While we do not see this section of the Plan as being applicable, should the County disagree, then relief can be provided through the OPA.
4. *Part III 2.8.1 c) of the County Official Plan permits shoreline lots with water servicing from a dug or drilled well provided that an adequate supply of water for domestic use will be provided. Please outline how the proposed "dug wells" that act as shore wells will provide an adequate and safe supply of water.*
- Please refer to the Response from BluMetric. It is recommended that both filtration and ultraviolet sterilization be required for those lots serviced by shore wells.
5. *Part IV Section 4.3.1 states that Shore Land Subdivisions shall be designed to avoid the complete development of the shoreline with single or multiple rows of lots. Please outline how the proposed row of 8 lots which consist of the entire shoreline is consistent with this policy?*
- The shoreline will not be completely developed with of a row of eight lots. Use is restricted such that 36m adjacent to the waterfront and regulatory floodplain will remain undevelopable. In addition, approximately 75m of the shoreline will be zoned to recognize the pioneer cemetery with no alteration permitted.
6. *Please outline why Open Shoreland and Cluster Subdivision Concepts as outlined in Part IV Section 4.3.2 of the Official Plan were deemed inappropriate for this site?*
- Open Shoreline Concept is not appropriate since the property is not located on either side of a public road. It is only located on the north side of County Road 7. Therefore, this concept is not applicable.

- Cluster Concept is not appropriate given the topography of the site and the need to protect the escarpment which is zoned 'Environmental Protection'. Therefore, back lots are not appropriate. In addition, a dense cluster of homes would not be in keeping with the rural character of the landscape.
  - Linear development is permitted in the Shoreland designation. As noted in Section 4.3.2, the linear form of development is the more traditional form of development in the County.
7. *Section 4.3.3 of the Official Plan states that new residential development in the shore land shall only be by a publicly maintained and assumed year-round road. The proposed application needs relief from this policy.*
- Access to the new development is not from a private right-of way, which was the intent of this policy.
  - Access to the condominium road and subdivision is from a publicly maintained and assumed road (County Road 7).
  - The condominium road will be built in accordance with municipal requirements and will be assumed and maintained by the condominium corporation.
  - As referenced in 3 above, when the 1993 PEC OP was adopted, registration of a common element condominium did not exist in the legislation. The intent of the OP is maintained in our opinion, however should the County feel that relief is required, it can be part of the OPA.
8. *Part V Section 1.1.4 of the Official Plan states development by Plan of Condominium shall be permitted only on land where municipal and/or communal water and sewer services are to be provided. Relief from this section is required.*
- A Plan of Subdivision is proposed, not a Plan of Condominium. In accordance with Part V Section 1.1.2, where four or more lots are proposed, development shall be by Plan of Subdivision. Therefore, this section is not applicable.
  - Refer to our comment in 3 above.
9. *Please note that Municipality will not take any responsibility of the Cemetery and it will be the responsibility of the Condominium Corporation to maintain.*
- The comment has been reviewed by the applicant's lawyer, Kirsten Musgrove, and she has provided a legal opinion regarding the cemetery and the County's responsibility.
  - The Turner Hill Cemetery is a municipal cemetery pursuant to Bylaw No 3452-2014 and is already under care and control of Prince Edward County. Given that this is an inactive cemetery, it would appear that the obligations are not significant. The Certificate issued by the Bereavement

Authority of Ontario confirms that Prince Edward County is the Operator of the Turner Hill Cemetery Licensed Site 03536 under License 3298026. An Operator of a Cemetery must be licensed under the Funeral, Burial and Cremation Services Act, 2002 and an owner of a cemetery has an obligation to ensure that the cemetery is operated and maintained by a licensed operator in compliance with the requirements of the Act.

- Certain maintenance obligations could perhaps be delegated to the Condominium Corporation acting as agent on behalf of the municipality, but ultimately the responsibility for the cemetery will remain with the licensed operator, being the municipality. The County cannot derogate all of its responsibility with respect to the cemetery.
  - Access to the cemetery should be provided to municipal employees by way of a right of way over the condominium road and Lot 8 so that inspections can continue.
10. *Conditions will be outlined in an agreement outlining the standards to which the cemetery is maintained.*
- Acknowledged.
11. *The Prince Edward County Zoning By-law does not permit Residential Uses within certain distances of Cannabis Production Facilities. Please review the Cannabis Policies in the zoning by-law and outline in rationale how the proposed is consistent with these policies.*
- The comment has been reviewed by the applicant's lawyer, Kirsten Musgrove, and she has provided a legal opinion regarding the Cannabis By-law.
  - The Cannabis Bylaw, as drafted, does not reciprocally apply to the sensitive uses of land within the setback area. The Bylaw prohibits the use of the land for cannabis production within the prescribed setbacks but does not prohibit the use of land for sensitive uses such as residential uses within the prescribed setback area. The bylaw does not therefore appear to prohibit the residential development within the setback.
  - It would be expected that warning clauses would be inserted in the development agreements and required to be brought forward into Restrictive covenants and agreements of purchase and sale, to warn buyers and future residents of the potential for odours causing a nuisance arising from the cannabis operation.

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### Lot Grading Plan, Ainley Group, November 11, 2020

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12. *The Condominium Road shall be designed in accordance to Municipal Emergency Services to Private Roadways By-law 3121-2012 (See attached), specifically have a change in gradient of not more than 1 in 12.5 over a minimum distance of fifteen (15) meters.*
- The Condominium Road has been designed in accordance to Municipal Emergency Services to Private Roadways By-law 3121-2012. An access memo has been completed outlining the review of the access slopes, including a vertical curve assessment and recommend speed limits. The Access Memo, dated January 11, 2022 is included with this submission.
13. *Confirmation required that driveway gradients between the Condominium Road and Building envelope can be constructed to accommodate emergency vehicles such as a fire truck.*
- The driveway gradients between the Condominium Road and building envelopes have been designed in accordance with By-law 3121-2012. In addition, a Fire Truck Turnaround detail has been included on the Lot Grading Plan.
14. *A 10m drainage easement between County Road 7 and the Adolphus Reach is required to be deeded to the County to provide a stormwater outlet from County Road.*
- A 10m drainage easement has been added between County Road 7 and the Adolphus Reach.

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### Environmental Impact Study, Ainley Group, November 2020

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15. *The EIS recommends a 30m setback from the top of slope of the escarpment feature. This location should be clearly marked on the lot grading drawing.*
- The escarpment has been identified on the plans, and the 30m setback from the toe of the feature has been identified, the 30 m setback from the top of the escarpment is not within the site limits.
16. *Please review and respond to the Peer Review Recommendations.*
- Please see Response letter from Ainley Group, dated January 27, 2022 and Revised Environmental Impact Study, dated January, 2022.

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Phase 1 Environmental Site Assessment, BluMetric Environmental, November 2020

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17. *The Archeological Report identifies a cemetery and sand pit on the property. This should be noted in the Phase 1 ESA.*
- Page 5 of the Phase 1 ESA prepared by BluMetric and which accompanied the submission, does identify the cemetery and former aggregate pit.

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Archaeological Assessments 1-4 , Ground Truth Archeology Limited

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18. *The limits of the cemetery should be defined on all future plans.*
- The limits have been added to the Lot Grading Plan.
19. *The recommendations of the Archeological Assessments shall be followed.*
- Acknowledged.

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Geotechnical Report, Ainley Group, November 2020

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20. *Please update lot grading and drainage plans should be updated with all site information.*
- Please see revised grading plan prepared by Ainley Group.
21. *Please Review and Respond to the Peer Review.*
- Please see revised Geotechnical Report dated, January 27, 2022 prepared by Ainley Group and the attached Response to Peer Review comments located in the chart in Section 2.2 of the Peer Review.

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Hydrogeological Assessment, BluMetric, February 2020

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22. *Please provide an outline on how the quality of water is going to be ensured as the Wells act as "Shore Wells".*
- Please refer to the Response from BluMetric dated January 27, 2022. It is recommended that both filtration and ultraviolet sterilization be required for those lots serviced by shore wells.
23. *The recommended setbacks between septic beds, shoreline and wells should be incorporated on the grading and drainage plan.*

- Please see Response from BluMetric. BluMetric recommends that the minimum separation distance between a shore well and the nearest septic system be 50 m.
- Please see revised plans prepared by Ainley Group.

24. *Please Review and Respond to the Peer Review.*

- Please see Response from BluMetric.

### Traffic Impact Study

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25. *Please modify the gravel shoulder to accommodate a right turning taper into the site according to OPSS. Road shoulders to slow down and yield is the typical operation of similar entrances.*

- A right turn taper has been added to the plans.

26. *The study should evaluate the requirement for guiderails along County Road 7 & internal roads due to steep slopes. Please update the study to reflect this.*

- Guiderails are not warranted in accordance with the MOT Roadside Safety Manual; the adjacent grades on County Road 7 are less than 4:1 and as such are recoverable. The internal laneway adjacent slopes are negligible as they follow the grade of the travelled lane.

27. *Please Review and Respond to the Peer Review.*

- It appears this comment is a typo as there are no peer review comments on the TIS.

### Stormwater Brief, Ainley, November 2020

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28. *The catchment areas should evaluate any existing runoff from surrounding lands, specifically County Road 7. Such flows should be diverted into a 10m drainage easement in favor of the County over the subject lands.*

- Catchment area has been revised to include lands south of County Road 7. A 10m drainage easement has been added in favour of the County.

29. *Please provide further review of major flows during a regulatory event.*

- Please refer to the SWM Brief, dated January 2022 prepared by Ainley Group.

30. *Relocation of the flow spreader on level ground above the floodplain in a location that is gently sloped.*



- Level spreaders have been relocated to be above of the floodplain setback.

31. *Please Review and Respond to the Peer Review.*

- Please refer to the SWM Brief, dated January 2022 prepared by Ainley Group.

### Quinte Conservation Comments

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32. *Please review and respond to comments attached to this letter.*

Below is a summary of concerns raised by Quinte Conservation.

- *The flow spreaders are located within the floodplain; they need to be relocated above the floodplain.*
  - The Drainage Plan has been amended to identify the level spreaders above the floodplain.
- *The setback should be 36m from the top of bank and not the highwater mark.*
  - The Draft Plan has been amended to provide a 36m setback from the 100 year floodline.
- *Slope stability for the shoreline may be required.*
  - Acknowledged.
- *Quinte Conservation will not issue permits for permanent structures within the floodplain.*
  - This can be addressed within the Subdivision Agreement.
- *Quinte Conservation has recommended that the Municipality contact the Ministry of Environment Conservation and Parks to discuss the proposed wells.*
  - Acknowledged.
- *Assurance should be proved that loading of phosphorus from the septic beds to the adjacent water feature will not be an issue.*
  - The Hydrogeology Technical Comments prepared by BluMetric indicate that given the large lot sizes and development density, a significant dilution of phosphorus will occur before reaching the Bay of Quinte. In addition, the large septic system setback distances from the well water supplies will also be protective of potential phosphorus loading to the Bay of Quinte.
- *Permits will be required from Quinte Conservation prior to development, including construction or grading, within 60m of the Bay of Quinte.*
  - Acknowledged.

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## Public Meeting

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33. *Please outline how proximity of the Cemetery to the Wells could impact the wells.*
- Please see response from BluMetric. Given that the last interment for the cemetery occurred in the early 1800's, it is BluMetric's opinion that the cemetery has exceeded its contaminating lifespan and there are no contaminants of concern posed by the cemetery.
34. *Please review the floods of 2017/2019 and outline how they could impact the proposed development and what is being proposed to ensure flooding does not negatively impact the site.*
- The regulatory flood limits and associated setbacks are identified on the grading plan. During home construction, lot specific grading plans will be required and site grading to ensure positive drainage will be provided.
35. *There was concern regarding stormwater runoff into the Bay of Quinte, coupled with the response to Quinte Conservations Comments in this regard please outline the quality controls proposed to control the runoff.*
- Please refer to the SWM report, and original review comments from Quinte Conservation and Jewell outlining agreement with the quality control measures to be implemented.
36. *Please outline how flooding could impact the Septic Systems and how this is proposed to be avoided and not cause impact.*
- BluMetric understands that the reported seasonal flooding is a result of drainage issues that will be addressed through the lot grading plans. If high water table conditions persist after planned drainage improvements, fully raised septic system design will be necessary to ensure a minimum 0.9 m separation distance between the bottom of the absorption trench and underlying seasonal high water table.

I trust that you will find the above and attachments to be of assistance and please do not hesitate to contact me if you require any additional information.

Yours truly,



Ruth Ferguson Aulthouse, MCIP, RPP President, RFA Planning Consultant Inc.  
C.c. Cressy Bayside Estates Inc.