

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: November 18, 2025

CASE NO.: OLT-23-000360

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act, R.S.O. 1990, c. P. 13, as amended*.

Applicant/Appellant	Chris Donegan
Subject:	Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description:	To permit a development of 43 single detached dwellings and a block for a 10 to 21-unit apartment building
Reference Number:	ZB02-2022
Property Address:	3852 Ganaraska Road
Municipality/UT:	Port Hope/Northumberland
OLT Case No:	OLT-23-000360
OLT Lead Case No:	OLT-23-000360
OLT Case Name:	Snowy Owl Woods Holdings Inc. v. Port Hope (Municipality)

PROCEEDING COMMENCED UNDER section 51(34) of the *Planning Act, R.S.O. 1990, c. P. 13, as amended*.

Applicant/Appellant	Chris Donegan
Subject:	Proposed Plan of Subdivision – Failure of Approval Authority to make a decision
Description:	To permit a development of 43 single detached dwellings and a block for a 10 to 21-unit apartment building
Reference Number:	SU01-2022
Property Address:	3852 Ganaraska Road
Municipality/UT:	Port Hope/Northumberland
OLT Case No:	OLT-23-000361
OLT Lead Case No:	OLT-23-000360

BEFORE:

W. DANIEL BEST
MEMBER

) Tuesday, the 18th
)
) day of November, 2025

THIS MATTER having come on for a public hearing and after the scheduling of a written re-hearing the Tribunal having issued a Decision on September 3, 2025, approving the Zoning By-law Amendment in part and granting an Interim Order approving the Draft Plan of Subdivision, and the Tribunal having withheld the final approval of the Draft Plan of Subdivision subject to the submission on consent of the conditions of draft approval;

AND THE TRIBUNAL having received the conditions of draft approval, filed on consent of the parties;

THE TRIBUNAL ORDERS that the Draft Plan of Subdivision is allowed, in part on an interim basis, and the draft plan shown on the plan prepared by Monument Geomatics dated February 16, 2023, comprising of Plan 39R-14329, Part of Lot 16, Concession 8, Municipality of Port Hope, County of Northumberland, is approved subject to the fulfillment of the conditions set out in Attachment "1" to this Order.

"Matthew D.J. Bryan"

MATTHEW D.J. BRYAN
REGISTRAR

Ontario Land Tribunal

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The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

ATTACHMENT “1”**Conditions of Draft Approval- Oct 1, 2025****(Approved by order of Ontario Land Tribunal)**

Plan of Subdivision:	SU01-2022 (Garden Hill Estates)
Applicant:	Mistral Development Inc.
Location:	Plan 39R-14329, Part of Lot 16, Concession 8, Municipality of Port Hope, County of Northumberland 3852 Ganaraska Road

Conditions of Draft Approval to be cleared prior to Final Plan approval and Registration of this Subdivision are as follows:

1. That this approval applies to the Draft Plan of Subdivision for Plan 39R-14329 Part of Lot 16 Concession 8, in the Municipality of Port Hope, County of Northumberland as prepared by Monument Geomatics, revised February 16, 2023 illustrating:

Land Use	Area (Hectares)
Single Detached Residential Lots (31 dwellings)	10.29 ha
Future Road Widening (Block 101)	0.15 ha
Multi Unit Building (Block 102)	0.67 ha
Existing Wetland (Block 103)	1.18 ha/
Other Lands (Blocks 106, 108 & 112)	15.20 ha
Storm Management Pond (Blocks 104 & 109)	0.71 ha
Maintenance Easement (Block 105)	0.09 ha
Drainage Easement (Block 107)	0.10 ha
Regulated Lands (Block 110)	4.29 ha
Hydro Easement (Block 112)	1.87 ha
0.3 m Reserve (Block 113)	0.00ha
Public Roads	2.05 ha
TOTAL	36.6 ha

2. That the public road allowances included in this draft plan shall be shown and

dedicated as public highways.

3. That the streets shall be named by the Municipality of Port Hope.
4. The Owner shall submit plans showing any development phasing to the County of Northumberland for review if this subdivision is to be developed by more than one registration.
5. The Owner shall submit updated Environmental Site Assessment documents, which may include confirmation that a Record of Site Condition was filed in the Ministry of the Environment Conservation and Parks' Environmental Site Registry to address any potential site contamination within the draft plan of subdivision to the satisfaction of the County of Northumberland.
6. The Owner/Developer shall service the future residential lots and blocks in the draft plan by private well water supply and private sewage disposal systems to the satisfaction of the Municipality of Port Hope and the County of Northumberland.
7. That the owner agrees to pay 5% of the value of the lands in accordance with Section 51 of the *Planning Act* for cash in lieu of parkland.
8. That prior to final approval, the following lands will be conveyed to the Municipality of Port Hope.
 - Maintenance Easement (Block 105)
 - Drainage Easement identified as Block 107
 - Stormwater Pond Blocks 104 and 109
9. The Owner agrees to convey to, and to the satisfaction of, the County of Northumberland, a road allowance widening (Block 101) across the total frontage of the plan on Ganaraska Road (County Road 9). This widening shall be determined as 18.25 metres north of the centreline of the existing road. This widening shall be free and clear of all encumbrances.
10. The Owner shall convey to, and to the satisfaction of, the County of Northumberland, free and clear of all encumbrances 15 metre x 15 metre sight triangles at the future intersection along Ganaraska Road (County Road 9). All sight triangles shall be measured from the road allowance widening limits.
11. The Owner shall agree in the future subdivision agreement with the Municipality of Port Hope that the pavement structure for the roadways within the plan of subdivision shall be designed to accommodate highway vehicle loading for future waste collection vehicles and the paved surface in any cul-de-sacs shall have a minimum radius of 15 metres.
12. The Owner shall be responsible for the full cost of the proposed culvert replacement/upgrades and all related improvements on Ganaraska Road (County Road 9) and private lands downstream to North Ganaraska River and shall submit

plans/studies satisfactory to the County of Northumberland and other approval agencies detailing all elements of the external works on Ganaraska Road (County Road 9) and private lands south to North Ganaraska River and obtain all permits necessary to undertake any external works on Ganaraska Road (County Road 9) and private lands. The County of Northumberland agrees that the culvert replacement/upgrades may benefit Northumberland County and may determine appropriate cost sharing for these works during the detailed design stage.

13. The Owner/Developer shall be responsible for the management of all excess soils resultant from external works on Ganaraska Road (County Road 9) and shall undertake all investigations necessary to characterize/quantify excess materials and plan for their management in accordance with all applicable regulations.
14. In consideration for the provision of an entrance directly to Ganaraska Road (County Road 9) rather than Mill Street, the Owner shall provide an illumination study to determine lighting needs along the total frontage and **at the new intersection to** Ganaraska Road (County Road 9) unless agreed otherwise with the County of Northumberland.
15. That prior to final approval, the Owner agrees to prepare a pre and post construction monitoring program along with a contingency plan, to the satisfaction of the Municipality, to address any development impacts on water supply quantity and quality both on and downgradient of the development as identified by Greer Galloway response to GRCA Comments (Sep 15, 2022), BluMetric's review of Greer Galloways reports/reply (Apr 28, 2023 and Oct 23, 2023).
16. The Owner agrees that the monitoring program must include, but not limited to, monitoring wells both on-site and off-site (downgradient), the parameters to be analyzed, the frequency of monitoring, minimum time frame for continued monitoring, and a communications protocol for the sharing of data collected.
17. The Owner agrees that the contingency plan must include potential impacts, the trigger for that impact and the response actions/mitigation measures as outlined in Table 2 of the Greer Galloway letter dated September 15, 2022, (response to *GRCA Hydrogeology Comments Proposed Garden Hill Residential Development*).
18. As a condition of final approval, the Owner agrees that a viable well must be established on each lot before the final sale of the particular lot.
19. The Owner agrees that should a viable well not be feasible on a particular lot then that lot could be amalgamated with an adjacent lot to create a larger lot or a shared well could be used.
20. The Owner agrees that should a shared well be needed to create a viable lot, that a formal easement-type agreement should be established prior to the final sale of the particular lot.

21. The Owner agrees that a yield of 3 to 5 Imperial Gallons per Minute is a reasonable viable yield.
22. The Owner agrees that a lower yield may be viable with storage augmentation if supported by an extended aquifer test conducted by a Qualified Person (P.Geo., or P.Eng.).
23. The Owner agrees that slab-on-grade home construction (i.e. no below grade basement) may be needed for some lots due to locally high groundwater table elevations. This would be determined based on groundwater monitoring with a minimum separation distance of 0.6 – 1.0 m between the seasonally high-water table and the lowest grade of the home when the groundwater table is extrapolated from off-lot measurements. A lesser minimum separation distance of 0.3 m is acceptable if supported by on-lot measurements.
24. The Owners shall acknowledge in the Subdivision Agreement that all offers of purchase and sale shall include a statement advising that purchasers are made aware that groundwater may require treatment. Purchasers should be provided d treatment recommendations based on available reports and results of groundwater monitoring activities and pumping tests.
25. The Owner shall acknowledge in the Subdivision Agreement the terms of the monitoring program and the contingency plan, and the establishment of a financial assurance with the Municipality of Port Hope to be used should the Owner not pay to implement response actions identified as per Condition 17.
26. That prior to final approval, the Owner agrees to provide:
 - i. a statement from a professional engineer indicating whether any works related to this application are subject to a Schedule “C” class environmental assessment; and,
 - ii. a statement from a Qualified Person, as defined by Ontario Regulation 153/04, regarding potential site contamination.
27. If further refinements of the servicing details show that the servicing block(s) have been undersized or not provided at all, the Owner’s expert shall revise the plans accordingly.
28. That prior to final approval, the Owner shall prepare a drawing to identify to the satisfaction of the Director, Works and Engineering the following:
 - i) Street “A” will be two-way traffic.
 - ii) Street “B” will be two-way traffic.
 - iii) Street “C” will be two-way traffic.
29. Porter Crescent cul-de-sac must be removed at Owner’s expense then tie into the adjoining road to make a continuous right of way and be constructed as per Municipality of Port Hope standards.

30. The Owner agrees to construct a cul-de-sac at the termination of Frost Avenue in accordance with the standards set by the Municipality of Port Hope, prior to entering the private entrance of Block 102. Additionally, the Owner agrees to extend the Road Allowance for Frost Avenue to include the cul-de-sac and to convey the extended portion to the Municipality.
31. As per the Geotechnical Report (Greer Galloway, May 6th, 2021) the pavement structure shall be:
 - 40mm HL3 surface course
 - 50mm HL8 binder course
 - 150mm OPSS 1010 Granular A base
 - 400mm OPSS 1010 Granular B Type 1 subbase
32. As per the Traffic Study Report (Tranplan Associates, April 2022), all signage and pavement markings should be constructed in accordance with the guidance provided in the Ontario Traffic Manual (OTM) and the Manual of Uniform Traffic Control Devices of Canada (MUTCDC).
33. That prior to final approval, the Owner agrees to prepare a Utility Coordination Plan to the satisfaction of the Municipality and the County of Northumberland.
34. That prior to final approval, the Owner agrees to prepare a full streetlighting design to the satisfaction of the Municipality.
35. That prior to final approval, the Owner agrees to prepare a Soil Management Plan to the satisfaction of the Director, Works and Engineering.
36. That prior to final approval, the Owner agrees to prepare a Construction Traffic Management Plan, including dust control, to the satisfaction of the Director, Works and Engineering.
37. That the Owner agree in the subdivision agreement to carry out or cause to be carried out all of the measures and recommendations contained within the Construction and Traffic Management Plan.
38. The Owner is required to submit a detailed cost estimate illustrating on-site and off-site fees required for complete build out of the lands. The Municipality will collect 100% of the off-site costs and 50% of the on-site cost in securities before the subdivision is signed.
39. As per the Works and Engineering fees and charges By-law, a Public Works User Fee will be collected at 4.5% of the first \$200,000 and calculated at 2.5% for any amount above \$200,000.
40. That the subdivision agreement between the Owner and the Municipality of Port Hope contain provisions requiring the Owner to undertake the regular cleaning of the

streets within subdivision as well as adjacent streets, as impacted by construction activity, all to the satisfaction of the Director, Works and Engineering.

41. That the Owner shall agree to design and construct all servicing requirements (roads, storm, natural gas, electrical, etc.) to the specifications of the approving authorities (the Municipality of Port Hope, the County of Northumberland, Enbridge, Hydro One, etc.) and the cost thereof shall be paid by the Owner.
42. That the Owner shall provide proof of an 'Offer to Connect' from Hydro One, and also agree to protect any existing Hydro One facilities during the construction of this subdivision.
43. That the Owner shall pay for a peer review of any study, report or guideline, if/as required by the Municipality of Port Hope.
44. In the event that the subdivision agreement is not executed within one (1) calendar year from the date of approval of the engineering drawings, they shall be resubmitted to the Director, Works and Engineering for approval prior to execution of the subdivision agreement.
45. That the Owner agrees that with regard to the extensions of Porter Crescent and newly proposed extension of Frost Avenue adjacent to the Northeast and Southeast wetlands, that encroachment of the Right-of-Way for the roads into the wetland buffer will not have negative impacts on the wetlands with the following design and mitigation:
 - i. that the paved road surface including curb and gutters will be outside the 15 m buffer
 - ii. design of roadways will include a curb and gutter system for runoff; and
 - iii. an area of equal or greater size will be added to the buffer of the southeast wetland on the north side of the creek, to make up for the reduction of buffer area that overlaps with the right-of-way.
46. That the Owner submits grading plans for all lots and blocks that back onto the watercourse, floodplain, wetland and stormwater management blocks to the satisfaction of the Gananaska Region Conservation Authority (GRCA) and the Municipality of Port Hope.
47. That the Owner erects a suitable temporary barrier to work fence prior to and during construction or regrading along the rear of blocks adjacent to the watercourse, floodplain, wetland and stormwater management blocks.
48. That the owner agrees to notify the Gananaska Region Conservation Authority (GRCA) at least 48 hours prior to the initiation of any on-site development.
49. That the Owner agrees, that should it be determined through detailed design that grade changes are required in order to accommodate development of lots/blocks adjacent to any natural hazard area (floodplain, watercourse) or in proximity to a

wetland, any grade changes must be accommodated outside of the buffer block and the lot lines must be adjusted accordingly, to the satisfaction of the Ganaraska Region Conservation Authority.

50. That the boundaries of the development envelope are to be clearly delineated on the ground prior to any site preparation or construction activities. A snow and silt fence is to be installed and maintained at least 15m from the wetland (or as close as possible to Porter Crescent).
51. That the Owner obtains a Permit from the Ganaraska Region Conservation Authority, prior to any development including filling and site alteration within the regulated area associated with pre-grading or pre-servicing.
52. That prior to final approval, the Owner designs, constructs, stabilizes and has in operation the new crossing at Ganaraska Road as well as any other alterations to natural hazards to the satisfaction of the Ganaraska Region Conservation Authority, the County of Northumberland, and the Municipality of Port Hope.
53. That prior to the commencement of any grading or construction on site, or final registration of the plan, the Owner shall submit to the satisfaction of the Ganaraska Region Conservation Authority (GRCA) the following:
 - i) That this approval relates to a draft plan of subdivision prepared by Monument Geomatics (File No: 21-1147) last revised February 16, 2023.
 - ii) Prior to final approval and to any on-site grading taking place, a detailed stormwater management plan in accordance with current MECP criteria, and the Functional Servicing Report prepared pursuant to Condition No. 41.
 - iii) That the Owner submit a plan to the satisfaction of the GRCA and the Municipality detailing the means whereby erosion and siltation will be minimized and contained on the site both during and subsequent to the construction period, in accordance with Provincial guidelines.
 - iv) That the Owner agree in the subdivision agreement to carry out or cause to be carried out all of the measures and recommendations contained within the reports approved under conditions ii) and iii) above.
54. That the Owner agrees in the subdivision agreement, in wording acceptable to the Municipality of Port Hope:
 - i. to design and implement on-site erosion and sediment control, in order to meet the requirements of the Municipality and the Ganaraska Region Conservation Authority (GRCA);
 - ii. to maintain all stormwater management and erosion and sedimentation control structures operating and in good repair, in a manner satisfactory to the Municipality and the Ganaraska Region Conservation Authority (GRCA).
 - iii. that the owner agrees in the subdivision agreement to carry out (or cause to be carried out) all of the measures and recommendations contained within the Environmental Impact Statement (dated Dec 12, 2022) and Addendum to the Environmental Impact Assessment (dated Feb 28, 2023), both prepared by Cambium Consultants Inc.

iv. that the owner agree, in the subdivision agreement to maintain all erosion and siltation control devices in good repair during the construction period in a manner satisfactory to the GRCA.

55. That the locations for all community mailboxes for mail delivery shall be located to the satisfaction of Canada Post and the Municipality of Port Hope.

56. That the subdivision agreement between the Owner and the Municipality of Port Hope shall contain the following warning clause:

NOTE: Purchasers are advised that it is unlikely that there will be door-to-door mail delivery within this subdivision. Canada Post intends to service this property through the use of community mailboxes that may be located in several locations within this subdivision.

57. That the subdivision agreement between the Owner and the Municipality of Port Hope shall contain the following warning clause:

WARNING: Purchasers are advised that the grading and drainage of the subdivision including all individual lots are designed utilizing sheet flow, side yard swales, rear yard swales and occasionally via rear lot catchbasins. It is the purchaser's responsibility to not block drainage by the construction of any fencing, decks, landscaping, etc. Any proposed changes to the grading, by the purchaser, must be approved by the Municipality and the County of Northumberland.

58. That such easements as may be required for utility, telecommunication services, drainage or servicing purposes shall be conveyed to the appropriate authority.

59. That prior to final approval, Bell Canada shall confirm by letter that satisfactory arrangements, financial and otherwise, have been made with Bell Canada for any Bell Canada facilities servicing this plan of subdivision which facilities are required by the Municipality of Port Hope to be installed underground.

60. That prior to final approval, the Owner acknowledges and agrees to convey any easement(s) as deemed necessary by Bell Canada to service this new development. The Owner further agrees and acknowledges to convey such easements at no cost to Bell Canada. The Owner agrees that should any conflict arise with existing Bell Canada facilities or easements within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.

61. That the Owner shall enter into a subdivision agreement with the Municipality of Port Hope. Without limiting the generality of the foregoing, the Owner shall agree in writing to satisfy all the requirements, financial and otherwise, of the Municipality of Port Hope, including the provision of roads, installation of services, stormwater management and drainage.

62. That the Owner shall agree in the subdivision agreement that no building permits

will be applied for or issued until the Municipality of Port Hope is satisfied that adequate road access, hydro service, and storm drainage facilities are available to service the proposed development.

63. The owner shall construct a permanent chain-link fence along the lots boundaries and blocks that abut the buffer to natural heritage features and areas (e.g., woodlands and wetlands) and that the fence will not have any gates or provide access to the buffer and the natural features and areas. The chain-link fence should also extend along the cul-de-sac of Street "A" and along Street "C".
64. The owner shall design and install educational signage, to the satisfaction of the Municipality, which will be installed within the buffer adjacent to the cul-de-sac for Street "A". The education signage shall describe the sensitivity of the natural feature, the ecological function of the buffer, and to instruct that public access is not permitted within the buffer and natural features and areas.
65. The owner shall prepare a Barn Swallow habitat design brief, to the satisfaction of the Municipality, to inform the design and installation of a Barn Swallow structure(s) that is required to mitigate for the removal of the barn which provide Barn Swallow nesting habitat.
66. Should any works be proposed within Block 108, including demolition of the barn, further consultation with the MECP will be required to address matters pertaining to the habitat for Endangered species, namely Blanding's Turtle that may be present in the southwest pond.
67. The owner shall complete a detailed water balance study and hydrogeological study, to the satisfaction of the Municipality and Ganaraska Region Conservation Authority, to ensure that impacts to groundwater infiltration can be mitigated (e.g., through Low Impact Development designs) and the quantity and quality of surface water of wetlands, ponds and watercourses will be maintained post-development.
68. The owner shall construct a permanent turtle exclusion fence on the north, east and south side of Block 108, to prevent turtles from entering the subdivision. The design of the turtle fence must be approved by the Municipality prior to construction.
69. This draft approval shall lapse in 3 years, except where it is extended by the approval authority.

NOTES TO DRAFT APPROVAL:

1. That engineering drawings be prepared in accordance with current Municipality of Port Hope standards, policies and requirements. Prior to the preparation of the subdivision agreement, the plans and drawings are to be submitted to and approved by the Director, Works and Engineering.
2. It is the applicant's responsibility to fulfill the conditions of Draft Approval and to ensure that the required clearance letters are forwarded by the appropriate agency to the Municipality of Port Hope, quoting the Municipal file number, within 3 (three) years of the Draft Approval date.
3. We suggest that you make yourself aware of:
 - a. section 143(1) of the *Land Titles Act*, which requires all new plans be registered in a land titles system;
 - b. section 143(2) allows certain exceptions.
4. All measurements in subdivision final plans must be presented in metric units.
5. Registration: The final plan approved by the Municipality must be registered within 30 days or the Municipality may withdraw its approval under Section 51(59) of the Planning Act.
6. Clearance is required (in writing to the Manager, Planning) from the following agencies:
 1. County of Northumberland;
 2. Ganaraska Region Conservation Authority, Canada Post Corporation;
 3. Bell Canada; and
 4. Hydro.