

Ontario Land Tribunal

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**Tribunal ontarien de
l'aménagement du territoire**

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April 24, 2025

TO: All recipients of the Ontario Land Tribunal Decision and Order issued on April 14, 2025

RE: OLT CASE NO.: OLT-23-000360, DECISION ISSUED ON APRIL 14, 2025

On April 14, 2025 the Ontario Land Tribunal issued its Decision and Order (“Decision”) on the above noted case.

Rule 24.4 of the Ontario Land Tribunal’s *Rules of Practice and Procedure* (“Rule”) states that the Tribunal may at any time correct a technical or typographical error made in a decision or order.

The Tribunal has corrected the following errors under this Decision under the authority of this Rule:

1. counsel representation of parties
2. misspelling of counsel names
3. removal of repetition of ‘video hearing’ in the Heard section

A corrected version of the Decision issued on April 14, 2025 is enclosed with this communication. This enclosed Decision replaces the Decision and Order issued on April 14, 2025.

Thank you,

“Euken Lui”

EUKEN LUI
REGISTRAR

Encl.

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: April 14, 2025

CASE NO(S):

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
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
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

PROCEEDING COMMENCED UNDER subsection 9(1) of the *Ontario Land Tribunal Act, 2021, S.O. 2021, c. 4, Sched. 6*

Request by: The Municipality of Port Hope
Request for: Request for an Order to determine the
Tribunal's jurisdiction with respect to the
scope or nature of Areas of Natural and

Scientific Interest as determined by the
Minister of Natural Resources

Heard: September 11 to 13 and September 20, 2024
by video hearing

APPEARANCES:

Parties

Counsel

Municipality of Port Hope (“Port Hope”)

Jennifer Savini
Daniel Querques (articling student)

Snowy Owl Woods Holdings Inc.
(aka Mistral Land Development Inc.)
 (“Appellant”)

Katarzyna Sliwa
Jessica Jakubowski
Isaiah Banach (*in absentia*)

DECISION DELIVERED BY A. SAUVE AND ORDER OF THE TRIBUNAL

[Link to Order](#)

INTRODUCTION

[1] This Decision flows from a three-day Hearing and a Motion that was brought just prior to the commencement of the Merit Hearing. This matter concerns applications for a Zoning By-law Amendment and Plan of Subdivision to permit the development of a residential subdivision on the lands municipally known as 3852 Ganaraska Road (“Subject Lands”), legally described as Part of Lot 16 Concession 8, being Parts 1, 2 & 3 of Registered Plan 39R-14329 in the Municipality of Port Hope.

[2] The Subject Land are approximately 15 hectares (“ha”) in size and are currently vacant. The Subject Lands are part of a larger land holding owned by the Appellant. The total land holdings owned by the Appellant, which include the Subject Lands and the other lands is 36.6 ha. The Subject Lands are currently leased to a local farmer that harvests a rotation of crops.

[3] To the north of the Subject Lands and within the total land holdings, an electric transmission line crosses from east to west. Two tributaries of the Ganaraska River

traverse the Lands; the first crosses the southeastern corner of the property and the second watercourse crosses the northern and western section of the property.

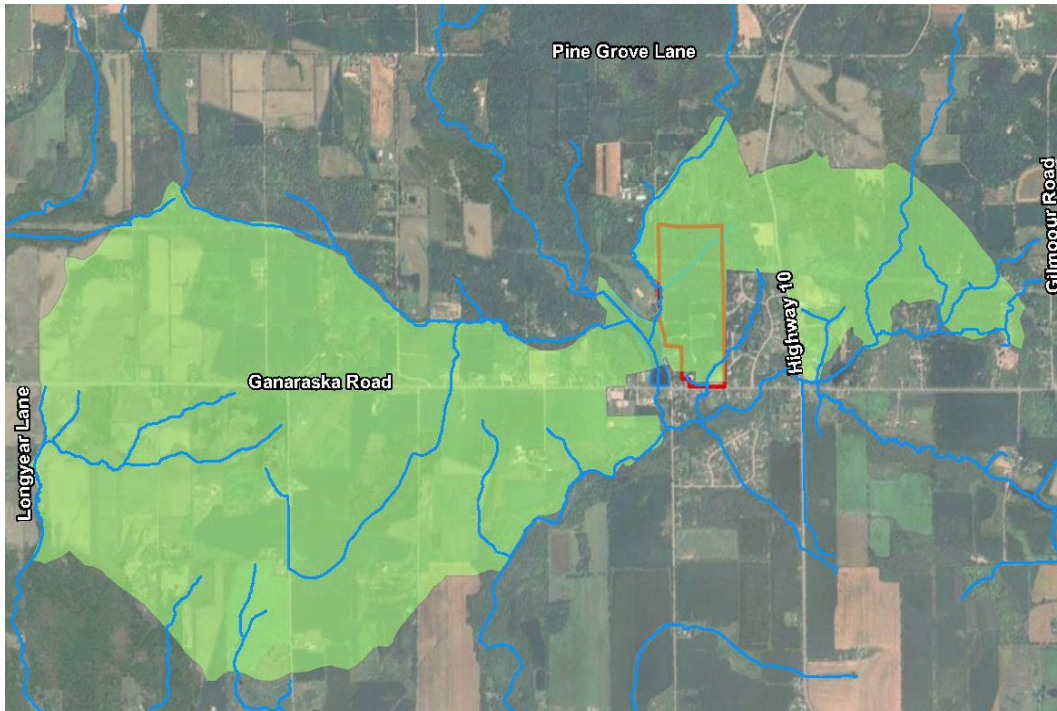
[4] The Subject Lands are bounded by existing residential development to the east, County Road 9 to the south, existing residential development and Mill Street to the west, and a woodland to the north. The proposal is to develop 31 single-detached lots and a multi-unit block where a maximum 18-unit residential building will be constructed.

[5] The Proposed Development area on the Subject Lands is zoned Future Development (“FD Zone”) in according to Schedule B- Sheet 23 of Port Hope Zoning By-law 20/2010 (“ZBL”). The FD Zone only permits uses that existed on the Lands as of the date of the passing of the Zoning By-law.

[6] In order to permit the Proposed Development, the Subject Lands needs to be rezoned from the FD Zone to the Hamlet Residential One, Exception (RESV1(***)) Zone, Hamlet Residential Two, Exception *** (RESV2(***)) Zone, the Open Space (OS) Zone, and the Environmental Protection (EP) Zone by way of a Zoning By-law Amendment (“ZBA”). In addition, an application for a plan of subdivision is required under Section 51 of the *Planning Act* in order to permit the division of the land.

[7] A portion of a Provincially Significant Area of Natural or Scientific Interest, known as the Garden Hill Pitted Outwash Plain (“ANSI”) has been identified on the Subject Land.

[8] The ANSI has been identified as a geological formation that straddles the Oak Ridges Moraine to the north and the Peterborough Drumlin Field to the south. It is described in a 1980’s report by G.S. Cordiner (“Cordiner Report”) as a “sandy pitted outwash plain” that provides insight into the history of deglaciation on the southern slope of the Oak Ridges Moraine. The feature is approximately 1,000 ha in size.



Garden Hill Pitted Outwash Earth Science ANSI (green) and locations of the Subject Lands (orange outline)

[9] Council for Port Hope failed to make a decision on the ZBA application within 90 days and on the plan of subdivision application within 120 days. The Appellant appealed the Municipality's non-decision on the Applications to the Tribunal on April 12, 2023.

EXHIBITS

[10] The following were made exhibits for the Motion and Hearing:

1. Affidavit of service (previously filed)
2. Joint Document Book
3. Compendium of Evidence
4. Motion Record of Port Hope

5. Redacted Response to Motion
6. Port Hope Reply Motion Materials

MOTION

[11] Prior to the commencement of the Hearing on the Merits the Tribunal heard a Motion brought by Port Hope seeking:

1. An Order declaring that the Ontario Land Tribunal does not have jurisdiction to make a determination on the scope or nature of ANSIs as determined by the Minister of Natural Resources (“MNR”);
2. An Order directing the Appellant to undergo the Identification and Confirmation Procedure for Areas of Natural and Scientific Interest PAM 2.08 (“PAM 2.08”) with respect to the ANSI on the Subject Lands;
3. An Order adjourning the hearing of this appeal pending the outcome of the PAM 2.08 process;
4. In the alternative, an Order dismissing the appeal on the grounds that the OLT does not have jurisdiction over the last remaining issue;
5. If necessary, an Order abridging time for service or filing of this motion; and
6. Such further and other relief as counsel may advise and the Tribunal may deem appropriate.

[12] However, Port Hope amended it’s sought relief believing that the first relief being asked for was unnecessary. Port Hope had believed that the Appellant was asking the Tribunal to determine whether or not an ANSI was present on the Subject Lands, which is the sole jurisdiction of the MNR. The Appellant, instead, is arguing that they are not

challenging whether an ANSI exists but whether what features are observed on the Subject Lands and whether or not the proposed development would have 'no negative impact' on the features. The Tribunal struck the first relief being sought at the request of Port Hope.

[13] Port Hope then asked for additional relief that had not been listed seeking an Order striking evidence that suggests the ANSI is different that what the Province had previously identified in the Cordinor Report.

[14] The Argument of Port Hope, to paraphrase, was that the Tribunal must use the features identified by the Province in the Cordinor Report when considering the 'no negative impact' test and that the Tribunal does not have the jurisdiction to determine what features, if any, are on the Subject Land.

[15] Port Hope opined that if the Motion is dismissed and the appeal is allowed than the MNR would change the boundaries of the ANSI based on the approved development, thus bypassing the required process conducted by the MNR, using the PAM 2.08 procedure, to altar the boundaries of an ANSI.

[16] The Appellant argued that they are not trying to change the ANSI, they agree that the Subject Land is in an ANSI, but that the Tribunal should determine the 'no negative impact' test on what features are found on the Subject Land regardless of who identifies the features.

[17] The Motion is dismissed. The Tribunal finds that the arguments made by Port Hope on behalf of their Motion do not create the justification for the relief they are asking for. The bar for dismissing an appeal is high and is not met in this instance.

[18] The test the Tribunal is being asked to consider at the hearing is found in section 2.1.5 (e) of the Provincial Policy Statement at that time, but can now be found in s. 4.1.5 (e) of the Provincial Planning Statement 2024 ("PPS").

Development and site alteration shall not be permitted in: an ANSI unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

[19] There is no indication or suggestion that the natural features are only ones identified in the Cordiner Report. The Tribunal agrees with Port Hope that studies and testing must be conducted to identify natural features in the ANSI, however the Tribunal finds that the Appellant has satisfied this element by conducting their own studies and testing. Whether or not those studies will be provided any weight or if they will be useful is to be determined after the evidence is tested by cross examination and rebuttal evidence, if any.

[20] In the case at hand, the Tribunal expects that it will be provided evidence by experts on what features are on the land. While it would be helpful if the parties agreed on the natural features, it is not necessary. If the legislature intended for a PAM 2.08 review to be completed for an ANSI prior to the 'no negative impact test' they could have included that.

[21] While it is not the jurisdiction of the Tribunal to determine whether or not an ANSI exists or its boundaries, the Tribunal finds that it has jurisdiction to decide what features, if any, are included on the subject land and whether a negative impact may occur if the application is approved.

MERIT HEARING

[22] At the commencement of the Hearing the Parties expressed to the Tribunal that only one substantial issue remained; Whether it can be demonstrated that the development will have no negative impact on the significant natural features or their ecological functions within the ANSI. While the exact wording may be slightly different, this requirement is found in the s. 4.1.5 (e) of the PPS, s. D1.5 (b) (v) the County of Northumberland Official Plan ("COP"), and s. C5.2.2 of the Port Hope Official Plan ("PHOP").

[23] The Tribunal believes that a thorough analysis of the remainder of the legislative requirements for the applications to be approved is not necessary as the evidence presented did not satisfy the 'no negative impact' test. While the Appellant has studied the features of the ANSI on the Subject Land the Tribunal had received only limited evidence of any features (north woodland) of the ANSI that are not on the subject land but may be negatively affected by the proposed development. The Subject Land only covers a small part of the ANSI.

[24] The Tribunal did not hear evidence from any witness that they investigated the entire ANSI for significant features that may be negatively impacted by the proposed development. The focus was on significant features on the Subject Lands and in the north woodland area.

'NO NEGATIVE IMPACT' TEST

[25] The policy framework for this analysis begins with the PPS Section 4.5 which states:

Development and site alteration shall not be permitted in:

- a) significant wetlands in the Canadian Shield north of Ecoregions 5E, 6E and 7E1;
- b) significant woodlands in Ecoregions 6E and 7E (excluding islands in Lake Huron and the St. Marys River)1;
- c) significant valleylands in Ecoregions 6E and 7E (excluding islands in Lake Huron and the St. Marys River)1;
- d) significant wildlife habitat;
- e) significant areas of natural and scientific interest; [emphasis added] and

f) coastal wetlands in Ecoregions 5E, 6E and 7E1 that are not subject to policy 4.1.4.b),

unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

[26] Section 4.8 states:

Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 4.1.4, 4.1.5, and 4.1.6 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.

[27] The following definitions from the PPS are also relevant:

Areas of natural and scientific interest: means

areas of land and water containing natural landscapes or features that have been identified as having life science or earth science values related to protection, scientific study or education.

Negative impacts: means

c) in regard to other natural heritage features and areas, degradation that threatens the health and integrity of the natural features or ecological functions for which an area is identified due to single, multiple or successive development or site alteration activities.

Significant: means

a) in regard to wetlands, coastal wetlands and areas of natural and scientific interest, an area identified as provincially

significant using evaluation criteria and procedures established by the Province, as amended from time to time;

[28] During the Hearing the Appellant offered three witnesses to provide evidence:

[29] The first was Kent Randall who the Tribunal found to be an Expert in the field of Land Use Planning. Mr. Randall is a Professional Planner who was retained by the Appellant in May 2021 to provide planning services in regard to the applications before the Tribunal concerning the Subject Lands. He visited the Subject Lands twice.

[30] The second witness was Dr. Carolyn Eyles who the Tribunal found to be an expert in the fields of glacial geomorphology and glacial sedimentology. Dr. Eyles was retained in April 2024 to conduct an independent assessment of the glacial landforms, focused on the Subject Lands. Dr. Eyles visited the Subject Lands twice.

[31] The third witness for the Appellant was Dr. Paul Villard who the Tribunal found to be an expert in the field of geomorphology and process sedimentology and erosion. Dr. Villard was retained in May 2024 to provide technical review and professional opinion with regards to geomorphology and erosion in association with a designated ANSI feature on the Subject Lands. His evidence focused on the portion of lands that are subject of the ZBA and Draft Plan of Subdivision applications.

[32] Mr. Randall's evidence was that the development would have no negative impact on the ANSI. However, he did not present evidence to support this conclusion.

[33] Paragraph 50 – 55 of his Witness Statement contain his analysis of the PPS 'no negative impact test':

(50) The determination of "no negative impacts" to the natural features or their ecological functions requires a technical review of the feature, including its characteristics and attributes. ***In the case of the ANSI on the Subject Lands***, [emphasis added] its characteristics and

attributes are well documented in Dr. Eyles and Villard's Reports and further summarized in their witness statements.

(51) In my opinion, as based on the descriptions provided in the above-noted documents, the main purpose of the ANSI designation is to ensure that the landforms and geology of the feature are protected so that they may be observed and studied. ***As such, the test of “no negative impacts” from the Proposed Development should be based on existing conditions of the Subject Lands and landforms present*** [emphasis added]. In addition, Dr. Villard recommends that Dr. Eyles' detailed geological interpretation of the Subject Lands be publicly available.

(52) Both Drs. Eyles and Villard analyzed the ANSI feature and conclude that the landform features and geological composition of the Lands are not representative of a pitted outwash feature.

(53) Dr. Villard analyzed the question of impact in the Erosion Report dated August 6, 2024, and his witness statement. ***He concludes that the landform features on the Subject Lands*** [emphasis added] have been heavily altered from their original form by agricultural practices that have taken place for approximately 100 years, whereby surface soil is being moved from uphill positions to downhill positions by tilling and or surface erosion/weathering. Therefore, in my opinion, the Proposed Development will not negatively impact the landforms that have already been significantly altered, as detailed in the Erosion Report.

(54) In Dr. Villard's Mitigation Plan Report dated August 6, 2024, he further states that since the Proposed Development is concentrated within the existing agricultural fields and since extensive grading is not proposed, the Proposed Development ***will not negatively impact the***

landform features that have been degraded on the Subject Lands
[emphasis added].

(55) Based on my understanding of the policy test and all of the above, it is my opinion that there will be no negative impacts on the ANSI.

[34] Also, paragraph 83 of his Affidavit:

(83) In my opinion, ***the assessment of the ANSI and landform features on the Subject Lands*** [emphasis added] by Dr. Eyles and Dr. Villard in their respective reports demonstrate ***that the features on the Subject Lands*** [emphasis added] are DeGeer Moraines, not pitted outwash. Their reports, in particular Dr. Villard's Erosion Report, illustrates that past and existing agricultural practices have disturbed the ***Subject Lands*** [emphasis added] and the landforms present, for at least 100 years. In Dr. Villard's Erosion Report he explains that agricultural practices exacerbate erosion due to tilling practices that loosen and displace soil, which result in modification of the landscape and existing landforms. It is my opinion that there would be no negative impacts on the natural features of the ANSI by the Proposed Development.

[35] Also paragraphs 95 and 98 of his Affidavit:

(95) It is my opinion that the Proposed Development will have no negative impact on the ANSI, based on the evidence and summarized as follows:

- The landforms and geology ***on the Subject Lands*** [emphasis added] are not indicative of a pitted outwash;
- The landforms ***on the Subject Lands*** [emphasis added] have been significantly altered through erosion and grading through typical farming practices; and

- Mitigation measures can still be implemented to ensure that impacts to the landscape and geology are minimized.

[36] The Tribunal notes that Mr. Randall bases his opinion on the potential impact on the Subject Lands to inform his opinion on the entire ANSI. The Tribunal also notes that Dr. Eyles and Dr. Villard were retained to provide evidence concerning the Subject Lands and not the ANSI as a whole.

[37] Mr. Randall did take the Tribunal to a document titled “ANSI, Agreed Statement of Fact” that was completed after a meeting of the experts which states:

(12) It is agreed that the Provincially Significant Earth Science ANSI extends to the woodland to the north.

(13) It is agreed that the Landform Features within the woodland will not be impacted by the proposed development.

(15) It is agreed that the proposed development must demonstrate no negative impacts to the Provincially Significant Earth Science ANSI.

[38] There is no mention of the ANSI lands to the east and west of the Subject Lands.

[39] The Tribunal notes that the evidence in chief of Mr. Randall mirrored the evidence contained in his Affidavit.

[40] The Tribunal also heard evidence from Dr. Eyles who states in paragraph 2.1 of her Affidavit:

I was retained on April 25, 2024, to conduct an independent assessment of the glacial landforms present on the lands municipally known as 3852 Ganaraska Road, in the Municipality of Port Hope, and legally described in PIN 51052-0685 (LT), in particular the area which is the subject of the Zoning By-law and Subdivision amendment applications before the Ontario Land Tribunal [emphasis added] (“Subject Lands”). The Subject Lands are outlined in bold in the draft plan at Figure 2 of this witness statement. The other lands owned by the Applicant are shown in red outline at Figure 2. **My analysis focused on the Subject Lands** [emphasis added]. I was later

asked to provide my expert opinion to the Ontario Land Tribunal as part of this Hearing.

[41] The evidence of Dr. Eyles was thorough, detailed and well presented. The Tribunal notes that her evidence in chief mirrored her Affidavit. However, the evidence of Dr. Eyles only focused on the Subject Lands. If the retainer, and her subsequent analysis, for Dr. Eyles had been to conduct an independent assessment of the glacial landforms present within the ANSI, and not just the Subject Lands, the Tribunal would have a better understanding of the significant features, if any, of the ANSI that may be impacted by the proposed development.

[42] A detailed analysis of the findings and opinion of Dr. Eyles, which may be significant in understanding what features are present on the Subject Lands, are unnecessary for this Decision. No matter what the Tribunal finds is a feature on the Subject Lands, the test requires an understanding on the entire ANSI, or at least the portions that may be negatively affected by the proposed development.

[43] The Tribunal also heard evidence from Dr. Villard who states in paragraph 10 of his Affidavit:

I was retained on May 24, 2024, by Snowy Owl Woods/Mistral Development Inc. to provide technical review and professional opinion with regards to geomorphology and erosion in association with a designated Earth Science Area of Natural and Scientific Interest (ANSI) feature on the lands municipally known as 3852 Ganaraska Road in the Municipality of Port Hope and legally described in PIN 51052-0685 (LT). My evidence focuses on the portion of lands that are subject of the Zoning By-law Amendment and Draft Plan of Subdivision applications before the Ontario Land Tribunal (referred to as "Subject Lands").
[emphasis added] The Subject Lands are outlined in bold in the draft plan as Attachment 5 of this witness statement. The other lands owned by the Applicant are shown in red outline under Attachment 5. These other lands are not included as part of the Proposed Development before the Tribunal.

[44] Dr. Villard prepared two reports for the Appellant in this matter:

1. Erosion and Agricultural Impacts on Natural Landform Features, 3852 Ganaraska Road, Port Hope, Ontario dated August 6,

2024; and

2. Garden Hill Pitted Outwash Earth Science ANSI Assessment and Mitigation Report, 3852 Ganaraska Road, Port Hope, Ontario dated August 6, 2024

[45] Dr. Villard in his evidence in chief and reports, notably the Mitigation report, does speak to mitigation efforts that may be used to protect the ANSI, but the Tribunal finds that the significant features of the ANSI, if any, are not identified for the ANSI as a whole but only for the Subject Lands. How can mitigation be proposed when the significant features to be protected are not investigated and identified?

[46] Paragraphs 57 – 64 of Dr. Villard’s Affidavit are the complete discussion under the heading “ANSI Impact Assessment and Mitigation Plan” state:

(57) Section 2.1.5 of the PPS (2020) states that “development and site alteration shall not be permitted in significant areas of natural and scientific interest unless it can be demonstrated that there are no negative impacts on the natural features.”

(58) I have completed a landform impact assessment and developed a mitigation plan for the Earth Science ANSI. This is provided in my Mitigation Plan Report (Attachment 4) and summarized below.

(59) The impact assessment and mitigation plan which is detailed in the Mitigation Plan Report were informed by detailed desktop analyses and field observations summarized in my Erosion Report (Attachment 3) and by the work completed by Dr. Carolyn Eyles.

(60) Based on my understanding, extensive grading is not proposed or required as part of the proposed development on the Subject Lands. The drip line, wetland limits, Regional floodplain, and associated

buffers are respected by the proposed development limits, with no grading encroachment into areas containing more substantial landform character north of the agricultural fields in other areas owned by the Applicant.

(61) Given the previous modifications that have occurred to the landforms on the Subject Lands, the proposed development plan does not impact future interpretation of local geology. Further, it has been shown through Dr. Carolyn Eyles' investigation and interpretation that the features on the Subject Lands are not unique.

(62) Should the development proceed through subsequent design phases, grading and infrastructure placement beyond the limits of the existing agricultural fields should be avoided to conserve landform character in natural, unmodified areas.

(63) Regardless, the evaluation of adjacent lands and a given Earth Science ANSI are to focus on retaining educational, scientific, and interpretive value of the area and feature(s).

(64) Cordiner (1980) recommended the ANSI be protected for further scientific, interpretive, and educational uses to fully understand the deglaciation period for the Garden Hill area. It is my opinion that the detailed geological interpretation completed by Dr. Eyles and summarized herein furthers the understanding of glacial history in this area, thus satisfying Cordiner's recommendation that the area be further studied.

[47] Again, the focus is on the Subject Lands. The Tribunal could not locate sufficient evidence of investigating the ANSI for significant features that may be negatively impacted by the proposed development in the materials or oral testimony at the Hearing. It appears Dr. Villard relied on the work of Dr. Eyles regarding the features found in the ANSI as a

whole but, as seen above, Dr. Eyles's focus was on the Subject Lands and not the ANSI as a whole.

[48] The Tribunal also heard from two witnesses for Port Hope, the first being Daryl Cowell who the Tribunal found to be an Expert in the field of Geomorphology. The Tribunal will not give any weight to the evidence of Mr. Cowell as he was argumentative, not cooperative and did not review all of the reports that were produced by the Appellant. The Tribunal finds that Mr. Cowell did not sufficiently inform himself of the matter.

[49] The Tribunal also heard from Nick McDonald who the Tribunal found to be an Expert in the field of Land Use Planning. Mr. McDonald testified that his opinion is based on the opinion and work of Mr. Cowell. Therefore, the Tribunal finds the evidence of Mr. McDonald to be of little help.

PARTICIPANT STATEMENTS

[50] The Tribunal received 18 Participant Statements for this matter, all of which did not support the proposed development. Their concerns were noted and used by the Tribunal to help craft this Decision.

DECISION

[51] The Tribunal finds that the onus falls to the Appellant to satisfy the test found in the PPS:

Development and site alteration shall not be permitted in: an ANSI unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

[52] The Appellant put forward the case of *Escarpment Biosphere Conservancy Inc v N. Bruce (Mun.)*, 2022 CanLii 492 to shift the onus onto the Municipality, however, that case involved an appeal by a third party and is distinguishable from this matter before the Tribunal.

[53] The Tribunal is not satisfied that it has enough evidence to conclude whether the proposed development will have no negative impact on the natural features or their ecological functions of the ANSI because, apart from the features on the Subject Lands the Tribunal received insufficient evidence regarding if any other features may exist. A detailed study regarding the significant features, if any, in the entire ANSI would have been helpful.

[54] The Tribunal cannot be satisfied that the proposed development would have a negative impact on the features of the ANSI if the Tribunal does not know what, if any, features of the ANSI exist outside of the Subject Lands.

[55] The Tribunal heard much evidence on whether the proposed development would have no negative impact on the natural features of the ANSI, or their ecological functions, as found on the Subject Lands but very little on the lands outside of the Subject Lands.

[56] The Tribunal finds that it does not have sufficient evidence before it to make a determination on whether the proposed development may negatively affect a significant feature found in the ANSI for the reasons outlined above.

[57] As such, the Tribunal finds that the applications are not consistent with the PPS and do not conform to the COP or PHOP.

[58] The appeal is dismissed.

“A. Sauve”

A. SAUVE
MEMBER

Ontario Land Tribunal

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

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.