

June 17, 2019

Legislative & Planning Services
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Oakville, ON L6M 3L1
Fax: 905.825.8822

Ms. Anissa McAlpine, Senior Planner
Niagara Escarpment Commission
232 Guelph Street
Georgetown ON
L7G 4B1

Dear Ms. McAlpine:

Re: Proposed Development Permit Application
7106 McNiven Road
Town of Milton, Region of Halton
File: H/I/2018-2019/261, [REDACTED]

Proposal

Regional staff has reviewed the subject application to recognize the unauthorized establishment of a landscape and snow plow business (Pro Mow Maintenance Inc.) on a 1.6 ha (4.1 ac) lot.

Planning Analysis

The following policy analysis addresses policies from the Provincial Policy Statement (2014), Greenbelt Plan (2017) and Halton Region Official Plan (2009). This analysis focuses on the landscaping and snow plow business on the subject lands as this is the use that is the subject of the proposed development permit.

Decisions related to planning matters are required to be consistent with the Provincial Policy Statement (PPS). Section 1.1.5.8 sets out that agricultural uses, agriculture-related uses, on-farm diversified uses and normal farm practices should be promoted and protected in accordance with provincial standards within the rural area. Home occupations and home industries are listed as permitted uses within rural lands under Section 1.1.5.2. Furthermore, Section 2.1.1. states that natural features and areas shall be protected for the long term. Section 2.1.2 sets out that the diversity and connectivity of natural features in an area and the long-term ecological function and biodiversity of the natural heritage system should be maintained, restored or, where possible, improved, recognizing the linkages between and around natural heritage features and areas, surface water features and ground water features. Section 2.3 of the PPS states that in Prime Agricultural Areas, agricultural uses, agriculture-related uses and on-farm diversified uses are permitted. The subject lands fall within the Prime Agricultural Area from a Provincial perspective.

The subject property falls within the Greenbelt Plan and is designated as Protected Countryside. Per Section 2.2. of the Greenbelt Plan, the Niagara Escarpment Plan policies continue to apply with the exception of Section 3.3, which does not apply to this proposal.

Within the Halton Region Official Plan (ROP), the subject lands are designated as 'Agricultural Area' and 'Regional Natural Heritage System' (RNHS) on Map 1. The Agricultural Area of the subject lands are also subject to the Prime Agricultural Area overlay. The landscape and snow plow business is located within the RNHS designated portion of the lands.

Within the RNHS, permitted uses may include uses such as a single detached dwelling, accessory buildings and structures, all types, sizes and intensities of agricultural operations (with some exceptions), home occupations, and cottage industries. Additional uses such as home industries, small-scale businesses, and

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horticultural trade uses are permitted in conjunction with a commercial farm, provided that the use is secondary to the farming operation and meets the relevant criteria contained in Section 117.1.

From a PPS perspective, there is no direct link between the landscaping and snow plow business and a primary farm operation on the subject lands. Furthermore, the Ministry of Agriculture, Food and Rural Affairs – Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas was reviewed. The subject business use is not considered an agricultural, agricultural-related or on-farm diversified use in this respect.

Regional staff have examined the information provided on the existing use in relation to the permitted uses within the RNHS designation and have determined that the landscaping and snow plow business does not meet any of the definitions and/or associated criteria for those permitted uses. The use is commercial in nature, includes outdoor storage of work machinery and vehicles, does not appear to primarily serve the rural or farming community, and an essential component of the work is conducted offsite. The business is located on a rural residential property and the applicant has not demonstrated that the small scale chicken farm, or any other activities on the property meet the definition of commercial farm as defined in the ROP. It is the position of Regional staff that the landscaping and snow plow business is not a permitted use within the RNHS designation and not in compliance with current policy frameworks.

Technical Comments

Regional staff note that even if the current policy framework could support the landscape and snow plow business use, there are technical concerns with the subject use that have not been satisfactorily addressed. The subject lands are located within the RNHS and contain or are adjacent to some significant environmental features. Features identified as Key Features, as illustrated on Map 1G of the ROP include:

- Candidate significant woodlands;
- Potential habitat of endangered or threatened species;
- Potential significant wildlife habitat;
- Potential fish habitat;
- Potential valleylands;
- Floodplain, erosion hazards and watercourse regulated by Conservation Halton (CH);
- Proximity to a wetland; and
- Areas identified as an enhancement area, linkage and buffer;

Given the location of the landscape and snow plow business and other uses on site, the Region's Environmental Impact Assessment (EIA) requirements would be triggered under Section 118. It is the policy of the Region to not permit the alteration of any components of the Regional Natural Heritage System unless it has been demonstrated that there will be no negative impacts on the natural features and areas or their ecological functions. Furthermore, while it is recognized that there is existing development on the property, there may be an opportunity to protect natural hazard and heritage features and impose appropriate setbacks that the unauthorized use may be encroaching on. According to the site plan, Building D "proposed office" and associated parking is located within 10m from the significant woodlands. Building D and the parking is required to be located a minimum of 10m from the dripline of the woodlands or an Environmental Impact Assessment (EIA) would be required in accordance with Section 118(3)d of the ROP. Strictly speaking from an ecological perspective, there are key natural heritage features on the subject site that have not yet been delineated, and their vegetative protection zones have not yet been identified. In the absence of environmental field work, it is not clear if there have been any negative impacts on the features on or adjacent to the subject property through the unauthorized establishment of the landscape and snow plow business. Further site assessment and potential environmental work through an EIA is required in this regard to ensure policy direction is met. However, given Regional staff have determined the principle of 'use' of the landscape and snow plow business is not supportable, detailed analysis has not been completed for the purposes of this comment letter.

CH staff provides environmental advisory and technical review services to the Town and Region in relation to the protection of certain natural heritage features and areas and natural hazard land

management. As such, any comments from CH staff with regards to the floodplain, watercourse, wetlands and potential fish habitat should be addressed to the satisfaction of CH.

Compatibility

It is noted that the subject lands are currently used for the raising of poultry. The Town of Milton Building Department should be satisfied that Minimum Distance Separation (MDS) and nutrient management requirements are met in this respect.

Regional Health

Regional staff have no health concerns with respect to the septic system. It is noted that the owner was advised to have the well upgraded to meet O.Reg. 903 standards.

Source Water Protection

The subject property is located within the jurisdiction of the Halton-Hamilton Source Protection Plan (SPP). The SPP can be accessed online at: <http://www.protectingwater.ca>. The property is located in a Significant Groundwater Recharge Area and Highly Vulnerable Aquifer. The above-noted application is not located in a Wellhead Protection Area (WHPA) or Issue Contributing Area (ICA), therefore no Section 59 notice is required. Regional staff have attached reference materials for the applicant related to the Source Water Protection program and the important role landowners play in protecting drinking water sources.

Archaeological Resources

According to Regional mapping, the subject property is identified as having archaeological potential. Although an archaeological assessment is not required by Halton Region as part of the subject application, the proponent is cautioned that during any future development activities, should archaeological materials be found on the property, the Ontario Ministry of Tourism, Culture and Sport should be notified immediately (416-212-8886 or archaeology@ontario.ca). In the event that human remains are encountered during construction, the proponent should immediately contact the appropriate authorities (police or coroner) and all soil disturbance must stop to allow the authorities to investigate and the Registrar of Cemeteries to be consulted.

Conclusion

Halton Region is unable to support the subject development permit application as the landscaping and snow plow business is not considered a permitted use by the ROP or current policy frameworks. Halton Region respectfully requests that the Niagara Escarpment Commission refuse the application.

The Region would appreciate receiving a copy of the decision.

Sincerely,



Amanda McNeish, BES, MCIP, RPP
Planner