

Niagara Escarpment Commission Commission de l'escarpement du Niagara

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June 7, 2019

**As Built Application
DEVELOPMENT PERMIT APPLICATION H/I/18-19/261**

████████████████████
Part Lot 11, Concession 1
7106 McNiven Road
Town of Milton, Region of Halton

PROPOSAL: To recognize the unauthorized establishment of a grass cutting and snow ploughing business (Pro Mow Maintenance Inc.) involving the use of two existing accessory structure and outdoor storage of machinery and vehicles.

DESIGNATION: Escarpment Rural Area

LOT SIZE: 1.6 ha (4.1 ac) lot

ISSUES: The NEC has received complaints from a neighbour about the operation of a business and the burning of debris on the property. A business has been operating from the subject property since 2014. The change in use of the residential property to include the business use was not approved through an NEC permit.

RECOMMENDATION: Refusal

REASONS: The use is not permitted in the Escarpment Rural Area under the Niagara Escarpment Plan; the proposed business it is not supported by a consulted agency: it is not consistent with the Town of Milton Official Plan; and the proposed appears to be in conflict with sections 2.3 for agriculture in the Provincial Policy Statement.

DATE RECEIVED: August 20, 2018

SOURCE: ██████████ (property and business owner since September 2014)

1 of 9

PROPOSAL: To recognize the unauthorized establishment of a grass cutting and snow plow business (Pro Mow Maintenance Inc.) involving the use of two existing accessory structure and outdoor storage of machinery and vehicles. (Pro Mow Maintenance Inc.), on a 1.6 ha (4.1 ac) lot.

RELATED FILES: There are no records of prior Development Permit Applications filed or Permits issued related to the business. In 1980 Development Permit # 1335/H/A/1980-1980/109 was issued on subject property to a previous owner for an agricultural storage building.

BACKGROUND:

- The NEC received a complaint over the phone in June of 2017 alleging that there is a business operating from the property with large trucks, trailers and machinery. Further, the nearby resident alleged that the burning of leaves and garbage on the property from the landscape business creates heavy smoke and leaves a lingering smell in the area.
- The subject application was received in August of 2018, following confirmation from the NEC staff that the business “Pro Mow Maintenance INC” is operating from the property. The application proposes to recognize the unauthorised establishment of the business from existing structures on the property.
- In June of 2019, NEC staff received correspondence from the same neighbour indicating their concerns with the application to recognize the business: 1) staff coming in and out daily from the property, 2) trucks and trailers stored on the property, 3) other peoples’ equipment being stored on the property, 4) burning of garbage bags full of waste from job sites, 5) proximity or impact to the creek. The letter of concern is provided as Appendix 4.
- The applicant describes the business as a snow removal and lawn mowing business. It employs three members of the household fulltime. The business also employs one I full time and 2 part time external staff persons. Weather dependant, on a typical day, up to three staff arrive in personal vehicles to the subject property, and up to three pickup trucks depart the property. In winter, the pickup trucks are outfitted with snowploughs, and a salter in the back of the truck. In summer, the trucks tow trailers with ride-on lawnmowers and other landscape maintenance equipment. The work vehicles do not return to the property until the end of the day.
- Two existing structures on the property are used for business purposes: a ± 107 sq m (± 1152 sq ft) shed used for equipment storage and repairs, and a ± 107 sq m (± 1152 sq ft) structure for equipment storage. The site plan indicates that these two structures are partially used for business purposes, partially used for farm related works and partially for personal purposes.
- A site visit to the property confirmed details of the site plan provided (see appendix 2) illustrating 6 accessory structures at the rear of the property, two of which (described above) are used partially for the business. Four additional non-permanent structures are in the cluster and used for personal storage. These structures include a ‘sea container’, an old construction site trailer, and two van bodies.

- Three business related pickup trucks and associated ploughs, salters, mowers, trailers, tractors etc. are all stored outside on gravel and grassed surfaces at the rear of the property.
- The applicant has indicated that they do not conduct “landscaping” per se, but primarily lawn mowing. There are no landscaping materials (mulch, soils, stones, fabrics) on site.
- The applicant has indicated that there is no storage of fuel or road salt on the property.
- The applicants have indicated that they farmed prior to commencing Pro-Mow Maintenance Inc. Due to financial need, had to diversify their operation. The applicants maintain a Farm Business Registration number. They keep up to 20 egg layers and up to 150 meat birds on site at a time. The applicants have kept beef cows off-site and crops on rented land. Despite this description, NEC staff do not consider agriculture to be the primary activity on the property. The 4 acre property contains a small vegetable garden but no cultivated land.
- NEC staff understand that the applicants began operating the business 10 years prior to purchasing the subject property in 2014. At the time of purchasing this property, the business was incorporated.
- During a site visit in June 2019, staff noted a smouldering pile of leaf or woody debris. The applicant advised that this material is collected solely at the subject property from fallen trees and other garden material. The applicant has indicated that pile is not associated with the business operation. Based on neighbour complaints about this burning pile dated back to 2017, it appears to be an ongoing concern.

1) **Niagara Escarpment Plan (NEP):**

The subject property is entirely located in the Escarpment Rural Area of the NEP. Based on a Canada Land Inventory mapping, the property is classified as Class 2 soils and, and is surrounded by other agricultural lands.

It is NEC staff’s opinion that the landscaping business use on the property does not align with the Permitted Uses listed under section 1.5.3 of the NEP. Thus, a fulsome evaluation of the proposed against the Development Criteria under section 2.0 of the Niagara Escarpment Plan has not been conducted. Analysis regarding how the business does not meet the Permitted Uses is provided below.

Agricultural use: The NEP and the PPS define an agricultural use as follows:

- *The growing of crops, including nursery, biomass, and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including, but not limited to livestock facilities, manure storages, value-retaining facilities, and accommodation for full-time farm labour when the size and nature of the operation requires additional employment.*

The operation of a snow plow and grass cutting business from the property does not produce any of the above noted products and does not constitute a normal farm practice. The business is not an agricultural use.

Agriculture-related uses: The NEP and PPS define *agriculture related uses* as:

- *farm-related commercial and farm-related industrial use that is directly related to farm operations in the area, supports agriculture, benefits from being in close proximity to farm operations, and provides direct products and/or services to farm operations as a primary activity.*

There does not appear to be a link between this operation and the neighbouring farm operations. Based on correspondence with the applicant the business serves the local community including rural, institutional and municipal clients. NEC staff understand that a local municipality is a major client, mowing urban public spaces. The business does not serve the agricultural community as a primary activity. Given the business's service area, there is no strong rationale for the business to be located on prime agricultural land. Typically, the storage and maintenance of machinery would be better suited to an industrially zoned equipment yard

The OMAFRA Guidelines on permitted Uses in Ontario's Prime Agricultural Area (2014) provide further guidance in determining if a use meets the above definition. Of note, section 2.2.3 of the Guidelines provides examples of uses that would typically not be an agriculture-related use, including: contractor's yards, construction companies, landscapers, mechanics shop and seasonal storage of cars. The snow plough and lawn mowing business on this property appears to blend aspects of a mechanic shop, a contractor's yard and a landscaping business. Based on provincial guidance material around *agriculture-related uses*, the business is not be considered an *agriculture-related use*.

On-farm diversified uses: The NEP and PPS define *on farm diversified uses* as:

- *a use that is secondary to the principal agricultural use of the property and is limited in area. On-farm diversified uses include, but are not limited to, home occupations, home industries, agri-tourism uses, and uses that produce value-added agricultural products.*

The applicants have communicated that they farmed prior to starting Pro-Mow maintenance and established the business as a means to diversify their income source for financial needs. Since then they have purchased this property but continue to farm off-site, where they raise some livestock and crop rented lands. While some minor agricultural activities exist on the property, NEC staff do not consider agriculture to be the principle use of the property due to its small size (4 acres), and that the primary use appears to be related to the landscaping business. As such, the business proposed to be recognized cannot constitute an *on-farm diversified use* on this property.

Accessory uses: The NEP defines accessory uses as:

- *the use of any land, building, structure or facility that is naturally and normally incidental, subordinate, and exclusively devoted to the principal use located on the same lot.*

NEC staff do not consider the storage of multiple pieces of commercially used vehicles and equipment associated with the business to be naturally incidental to the primary established residential use on the property. The proposed is not an *accessory use*.

Home industries: The NEP defines *home industries* as:

- a use, providing a service primarily to the rural or farming community and that is accessory to a single dwelling or agricultural operation, performed by one or more residents of the household on the same property. A home industry may be conducted in whole or in part in an accessory facility and may include an animal kennel, carpentry shop, a metal working shop, a welding shop, an electrical shop or blacksmith's shop, etc., but does not include an auto repair or paint shop, or furniture stripping facility.

The Pro-Mow business appears to similar in nature to a home industry in that it is accessory to a single dwelling and is performed by 3 members of the household on the property and serves the local community. Nevertheless, common to the examples provided in the definition is the creation of a product or provision of a service *completed on the property*. Aspects of equipment maintenance and repair are performed in accessory structures on the subject property meeting the definition, however the bulk of the business operation is conducted off-site. The definition of a home industry does not include the storage of vehicles or equipment outside the home or accessory structure(s), and it does not provide for the storage of machinery to conduct works *offsite*. The definition is silent on the employment of individuals who are not members of the household. The snow plough and grass cutting business operating from the property does not appear to meet the definition for a *home industry*.

Given the above analysis, the business operating on the site property fails to meet any of the above listed definitions of uses that may be permitted under section 1.5 of the NEP for Escarpment Rural Areas.

Other Considerations

Should the proposed use have been considered a permitted use under section 1.5 of the NEP, the following would be relevant Development Criteria for evaluation:

- General Development Criteria 2.2.2 which stipulates that *"The site shall not be prone to natural hazards, and the development will not impact the control of these natural hazards including flooding hazards, erosion hazards, or other water-related hazards and hazard events associated with unstable soil or unstable bedrock"*;
- Development Criteria 2.2.10 for home occupations and home industries which maximum size of the use within a single dwelling or accessory structure and further stipulates that the use will conform to municipal official plan policies and standards (e.g., lot size, parking, floor area, retail space);
- Development affecting Water Resources (2.6) given the presence of a tributary to Bronte Creek on site and near the space utilized by the business for storage;
- Development affecting Natural Heritage (2.7) given adjacent wooded areas and documented species at risk occurrences; and
- Agriculture (2.8).

At this time, evaluation of the proposed use against these Development Criteria has not been completed and it is unknown if the Criteria could be satisfied.

2) Provincial Policy Statement (PPS):

It is unclear if the proposed use is in keeping with PPS policies for natural heritage and water in section 2.1 and 2.2. Impacts of the operation on the water feature present on site and adjacent natural heritage features have not been considered at present.

The proposed development does not meet the permitted uses for *prime agricultural areas* under section 2.3 of the PPS. The PPS states that in *prime agricultural areas*, permitted uses and activities are: *agricultural uses, agriculture-related uses and on-farm diversified uses*. Given the definitions for these permitted uses are identical to the definitions provided in the NEP, it follows that the described snow removal and grass mowing business is not permitted under the PPS. **The proposed is inconsistent with the PPS.**

The existing business proposed to be recognized stores materials and operates from structures located within the floodplain and meander belt hazard of a creek on the property and as such Section 3.0 of the PPS for *Protecting Public Health and Safety* warrants consideration. The PPS states that development shall be directed away from natural hazards and not create new or aggravate existing hazards. As the structures used for the business appear to have been constructed prior to the establishment of this business (and likely in the 1980's or earlier), the operation of the small business from within the structures would not aggravate the existing hazard. Section 3.0 of the PPS is not offended.

3) **Local Official Plan:** The subject lands are designated in the Town of Milton Official Plan as Escarpment Rural. Following the adoption of OPA #31 to the Town of Milton's official Plan, the lands are now designated as part of the natural Heritage System. Landscaping and snow plough business are not permitted.

4) **Regional Official Plan:** The subject lands are designated Prime Agricultural Area and Regional Natural Heritage System in the 2009 Region of Halton Official Plan (ROP).

5) Consultations:

a) **Town of Milton:** Initial comments from the Town in October of 2018 indicate that staff **has objection** to the landscaping and snow plough business as it is not a permitted use in the Town of Milton Official Plan. Additionally, staff have concern as it related to the impact of snow and salt storage on environmental features within the surrounding vicinity.

Town staff followed up in April of 2019 after the adoption of Official Plan Amendment #31 to the Town of Milton's Official Plan suggesting that the property is designated Natural Heritage System (NHS). The landscape and snow plow business would not be considered as a *home occupation, cottage industry or home industry* as per the definitions in the OP, but rather a *horticultural trade use* which is defined as a non-farm business associated with the sale, supply, delivery, storage, distribution, installation, and/or maintenance of horticultural plants and products used in landscaping, but does not include uses associated with the principal agricultural

operation. A *horticultural trade use* is permitted in the NHS on lots greater than 4 hectares in size and subject to approval of a zoning by-law amendment and site plan approval in accordance with the policies of the OP. Given the small size of the property, the proposed use does not meet the minimum size requirement to be permitted as a *horticultural trade use* and the Town has maintained their opposition to the application. See Appendix 3 for full agency comments.

- b) **Region of Halton:** Comments have not yet been provided. Regional staff are awaiting to conduct a site visit.
- c) **Conservation Halton (CH):** The subject property is traversed by a tributary of Bronte Creek (in the Killbride Creek subwatershed) and associated flooding and erosion hazards. The property is also in close proximity to an existing wetland. Further south along the creek corridor. CH regulates a distance of 15 meters from the limit of the greatest hazard associated with the water course and 120 meters from the wetland. As such the subject property is partially regulated by CH pursuant to Ontario Regulation 162/06.

Based on the review of drawings and available mapping, all existing accessory structures (structures A-F) are within the flood plain and erosion hazard of the Creek. CH has advised that development within the regulated area is subject to CH policies and requires formal permission from CH. Any new development, including structures, grading, and alteration to existing buildings may be restricted.

CH understands that structures used for the business are existing and that no new development is proposed at this time. As such CH has **no objection** to the proposed recognition.

Given that the structures and vehicle storage area associated with the business are within a floodplain, are very close to the creek, and are close to and upstream of a large wetland, CH recommends that the equipment and fuel be stored in a safe way to reduce the risk of negative impact to the creek and wetland systems.

- d) **Ministry of Natural Resources and Forestry (MNR):** MNR staff suggested that movable facilities and equipment storage should be moved back from the watercourse to provide it with a buffer of at least 30 metres. NEC staff note that none of the movable structures are associated with the business operation that is the subject of this application. Machinery and equipment associated with the business is stored within 30 meters of the watercourse.

5) **Site Description:**

- The subject property is located on the west side of McNiven Road just North of Derry road. The subject property is located less than a kilometre north of the Minor Urban Centre of Kilbride.
- Adjacent properties within the NEP development control area contain cropped farm fields, pasture lands, forested areas, residential properties. The subject property is directly neighboured by a large greenhouse operation.

- The 1.6 ha (4.1 ac) subject property is entirely designated as Escarpment Rural Area. The property is long and narrow containing a single dwelling, a cluster of out buildings and a tributary of Bronte Creek.
- The subject property is relatively flat with no steep ravine or slope features associated with the creek. Conservation Halton's mapping indicates that the entire property, except the dwelling is within the floodplain hazard, and approximately the rear 50 meters of the property are located in the meander belt hazard. The cluster of existing out-buildings, storage structures, and equipment storage space on the property is within the meander belt hazard.
- The single dwelling is set back from McNiven road by approximately 90 meters and obscured from view by mature trees and gardens. Behind the home is vegetable garden. The driveway to the home extends approximately 40 meters further to the rear of the property where a cluster of out-buildings, storage structures and machinery are located for business and personal use. There is no visibility from the public right-of-way to the interior of the property.
- Directly west of these outbuildings is a tributary to Bronte Creek. The Creek is buffered by a thin quantity of vegetation and is located just over 10 metres from the nearest portable storage structure at the rear of the property. The lands beyond the creek are forested and connect to a larger forest system that contains wetlands and provincially significant wetlands. The Natural Heritage information Centre indicates that there are species at risk occurrences within a 1km square of the subject property.

CONCLUSION:

The application to recognize the unauthorized establishment of a grass cutting and snow plow business (Pro Mow Maintenance Inc.) on a 1.6 ha (4.1 acre) lot is not recommended for approval. While the proposed use appears to constitute a part of diversified farm business that is conducted both on and off the subject property, and while the proposed use appears to share components of a home industry, it does not meet the NEP definition of these uses. The proposed use is not permitted under section 1.5 f for the Escarpment Rural Area of the Niagara Escarpment Plan. Given that the proposed use is not a permitted use, evaluation of application against the Purpose and Objectives and Development Criteria of the NEP would be premature.

Additionally, the Town of Milton has advised that a landscaping business would not be permitted on a property of this size under the Town of Milton's Official Plan.

Finally, the proposed appears to be in conflict with policies for Agriculture in the Provincial Policy Statement (Section 2.3)

Staff note the burning of plant debris on the property may or may not be related to the operation of Pro-Mow Maintenance. Open Air Burning permits are required by the Town of Milton Fire department for both residential and agriculture related fires. This matter should be directed to the Town for follow up.

RECOMMENDATION:

The proposal be refused for the reasons listed on the attached Appendix.

Prepared by:

Original signed by:

Anissa McAlpine
A/ Senior Planner

Approved by:

Original signed by:

Debbie Ramsay, RPP, MCIP
Manager

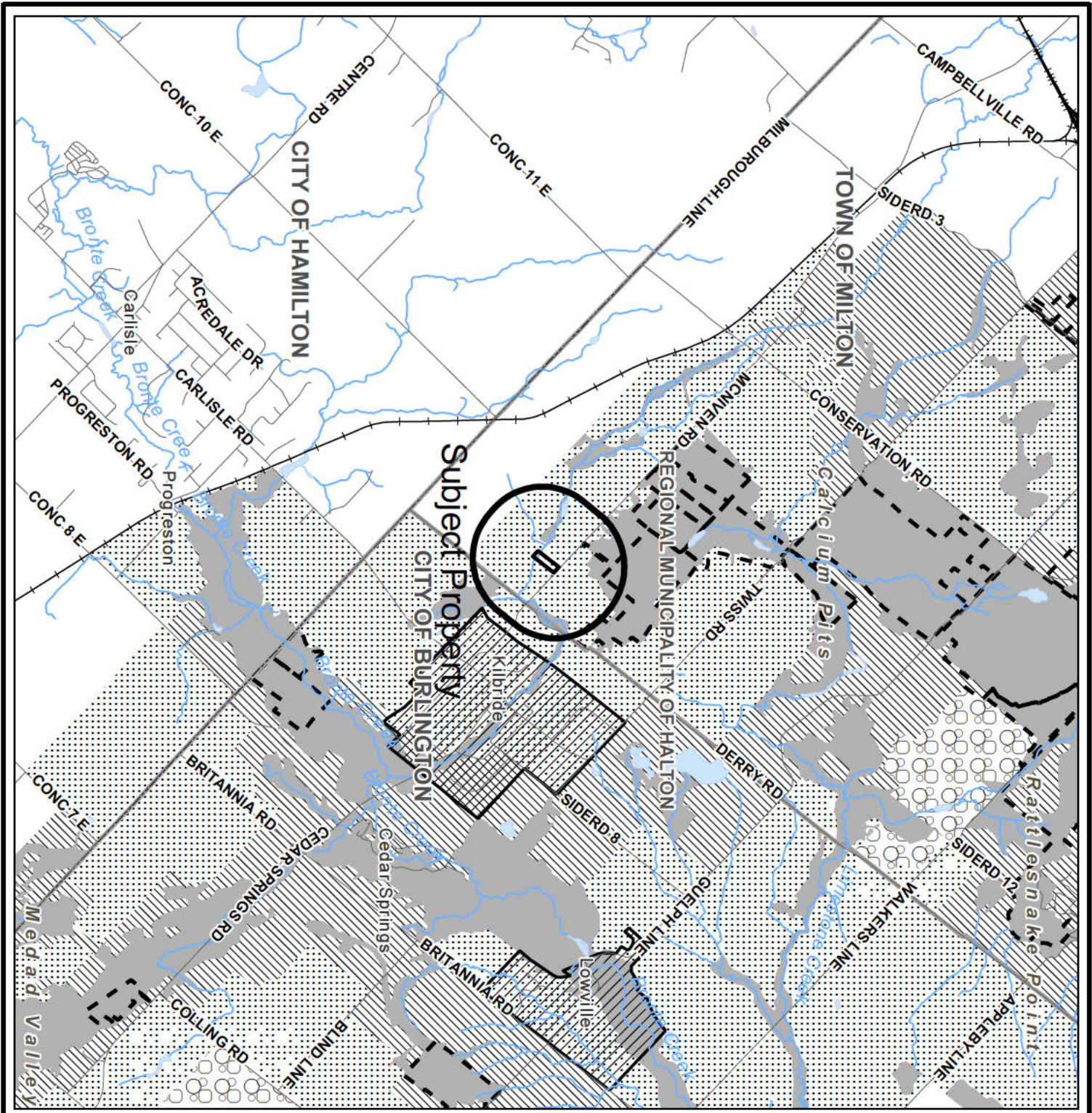
- Appendix 1 – Reasons for refusal
- Appendix 2 – Maps and site plan
- Appendix 3 – Agency comments
- Appendix 4 – Neighbour compliant letter
- Appendix 5 – Photos of equipment submitted by the applicant

APPENDIX 1

REASONS FOR REFUSAL

[REDACTED] H/I/2018-2019/261

1. The proposal is not a permitted use in the Escarpment Rural Area designation of the Niagara Escarpment Plan.
2. The proposal does not comply with the Town of Milton Official Plan and is not supported by the Town of Milton.
3. The proposed is in conflict with policies in section 2.3 for agriculture in the Provincial Policy Statement.



Map 1A
Niagara Escarpment Plan
 7106 MCNIVEN RD
 TOWN OF MILTON

- Subject Property
- Plan Designations**
- Escarpment Natural Area
- Escarpment Protection Area
- Escarpment Rural Area
- Mineral Resource Extraction Area
- Minor Urban Centre
- Public Land (in Parks and Open Space System)
- Roads
- Railway - Operational
- Waterbodies
- Watercourse
- Upper Tier Municipality
- Lower/Single Tier Municipality

Scale 1:50,000
 0 380 760 1140 1520
 Metres

NOTE: The Niagara Escarpment Plan Designation boundaries shown on this map are approximate and subject to confirmation through site inspection and the application of the "interpretation of boundaries" section of the Niagara Escarpment Plan.

THIS IS NOT A PLAN OF SURVEY.
 This map is illustrative only. Do not rely on it as being a precise indicator of roads, location of features, or as a guide to navigation. Base derived from various sources. Map GIS Department of the Niagara Escarpment Commission. Ministry of Natural Resources.

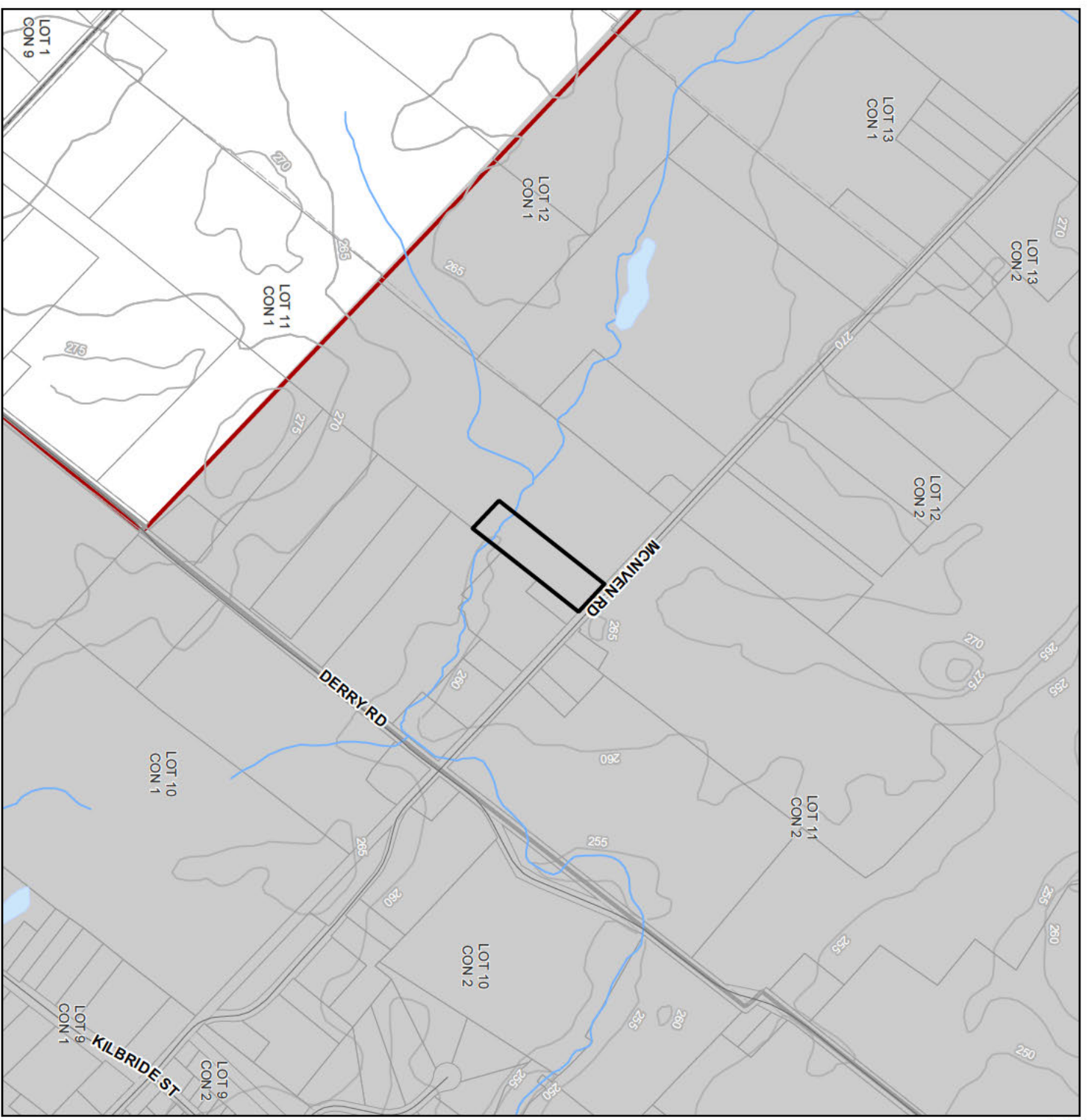
Printed on Sep 27, 2018



Map 2 - Development Control

Lot Configuration

7106 MCNIVEN RD
TOWN OF MILTON



- Subject Property
- Niagara Escarpment Plan Area
- Area of Development Control
- Roads
- Waterbodies
- Watercourse
- Contour (5 metre intervals)
- Upper Tier Municipality
- Lower/Single Tier Municipality
- Lot and Concession Boundary
- Parcel Boundary

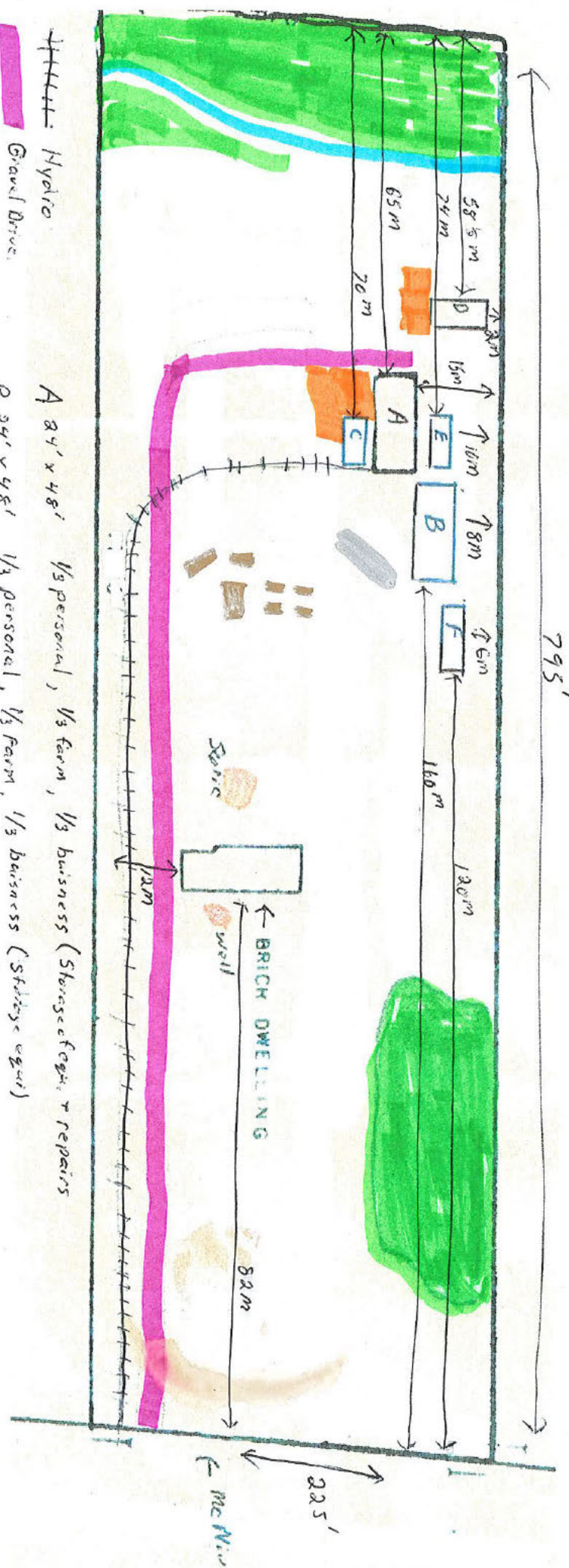
Scale 1:10,000
0 75 150 225 300
Metres

THIS IS NOT A PLAN OF SURVEY.
This map is illustrative only. Do not rely on it as being a precise indicator of roads, location of features, or as a guide to navigation. Data derived from various sources. Map ©2017 Department of the Niagara Escarpment Commission, Ministry of Natural Resources
Printed on Sep 26, 2018
Queen's Printer for Ontario and its licensees (2017)
Map data reproduced without permission

Top

North

Total Size 4.4 Acres.



- Hydro
- Gravel Drive
- Parking
- Creek
- Bush
- Raise garden beds farm
- Campers 35' personal

- A 24' x 48' 1/3 personal, 1/3 farm, 1/3 business (Storage, eggs, & repairs)
- B 24' x 48' 1/3 personal, 1/3 farm, 1/3 business (Storage, eggs)
- C 22' x 8' Chicken coop Van body 1000 farm
- D 18' x 8' Van body Personal old electric staff
- E 8' x 10' old site trailer on wheels personal junk
- F 48' x 8' Sea Containers personal stuff
- A - 35m from creek
- B - 50m "
- C - 40m "
- D - 25m "
- E - 40m "
- F - 65m "

MAP 3
 Site Plan
 FILE NO. H/1/2018-2d9/261
 APPLICANT [REDACTED]



905.336.1158
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2596 Britannia Road West
Burlington, Ontario L7P 0G3
conservationhalton.ca

Protecting the Natural
Environment from
Lake to Escarpment

June 7, 2019

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

BY MAIL AND BY EMAIL

Dear Ms. McAlpine:

**Re: 7106 McNiven Road
Town of Milton
Development Permit Application H/R/2018-2019/261
(Fuller)**

Proposal

To recognize the unauthorized establishment of a landscape and snow plow business (Pro Mow Maintenance), on a 1.6 ha (4.1 ac) lot. Staff understand there is no new development being proposed as part of this development permit. We also understand that no change in designation under the Niagara Escarpment Plan is proposed.

Ontario Regulation 162/06

Based on Conservation Halton's (CH's) Approximate Regulation Limit (ARL) mapping and available information, the subject property is traversed by a tributary of Bronte Creek (in the Killbride Creek sub-watershed) and the associated flooding and erosion hazards. The property is also in close proximity to an existing wetland (greater than 2 ha) further south along the creek corridor. CH regulates a distance of 15 metres from the limit of the greatest hazard associated with the watercourse and 120 metres from the wetland. As such, the subject property is partially regulated by CH pursuant to Ontario Regulation 162/06. Development (structures, fill, grading, etc.) within the regulated area is subject to CH Policies and requires formal permission from CH.

Based on review of the drawings and available mapping, all existing accessory structures (structures A through F on the MAP 3 Site Plan provided in the application) are within the flood plain and erosion hazard of the creek. CH advises the applicant that any new development in this area (including structures, grading, and alteration to existing buildings) may be restricted and will require a permit per CH policy.

Staff understand that this development permit application is to recognize an unauthorized landscape and snow plow business. Map 3 indicates that accessory structures A and B are partially used for the business; however, we understand that these structures are existing and that no new development is proposed at this time. As such, CH has no objections to the proposed recognition.

Other

Given that the structures and vehicle storage area associated with the business are within the flood plain, are very close to the creek, and are close to and upstream of a large wetland, CH recommends that equipment and fuel be stored in a safe way to reduce the risk of negative impacts to the creek and wetland systems.

Based on available mapping, we understand that the property contains lands within the Regional Natural Heritage System. Should an Environmental Impact Assessment (EIA) be required, CH should be circulated on a Terms of Reference and the EIA to provide review and comment.

Conclusion

In light of the above, CH staff have no objection to the proposed recognition of the unauthorized establishment of a landscape and snow plow business.



Please note that any future development on this property may be restricted will require a permit from CH pursuant to Ontario Regulation 162/06. CH would also provide comment if a change of designation under the Niagara Escarpment Plan was proposed.

We trust the above is of assistance. If you require additional information please contact the undersigned at extension 2266.

Yours truly,



Laura Schreiner
Environmental Planner
LS/ *JS*

Cc: Julie Kearney, NEC (By Email)
Mollie Kuchma, Town of Milton (By Email)
 Applicants,  (by email)



Town of Milton
150 Mary Street
Milton, ON L9T 6Z5

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October 25, 2018

File: H/R/2018-2019/261

Ruth Conard
Niagara Escarpment Commission
232 Guelph Street
Georgetown, Ontario
L7G 4B1

Dear Ms. Conard,

Re: Development Permit Application [REDACTED]
Town of Milton

NEC Development Permit Application: H/R/2018-2019/261
Part Lot 11, Concession 1
7106 McNiven Road
Town of Milton, Region of Halton

General Description of Application:

To recognize the unauthorized establishment of a landscape and snow plow business (Pro Mow Maintenance Inc.) on an existing 1.6 ha (4.1 ac) lot.

Official Plan Designation:

Escarpment Rural Area.

Official Plan Policy:

The subject lands are designated Escarpment Rural Area on Schedule A - Land Use Plan of the Town of Milton Official Plan. In this designation, landscape and snow plow businesses are not permitted. As such, the use does not conform to the Town's Official Plan.

Zoning:

The property is currently under the development control of the Niagara Escarpment Commission and has no zoning under the Town of Milton Zoning By-law 144-2003, as amended.

Planning Staff Comments:

Planning staff have reviewed the application and have object to the issuance of a Niagara Escarpment Development Permit, as the landscaping and snow plow business is not a use that is permitted in the Town of Milton Official Plan. Additionally, staff have concerns as it relates to the impact that snow and salt storage would have on environmental features within the surrounding vicinity.

Recommendation: Town of Milton Planning Staff do not support the Development Permit application and **object** to the issuance of a Niagara Escarpment Development Permit.

Comments Prepared by:



Mollie Kuchma, M.Sc., MPA, MCIP RPP
Planner – Development Review
Town of Milton

Date: October 26, 2018

From: Mollie.Kuchma@milton.ca
To: [McAlpine, Anissa \(MNRF\)](#)
Subject: RE: Home industry at 7106 McNiven Road (19-261 [REDACTED])
Date: April 24, 2019 11:00:38 AM
Attachments: [image001.jpg](#)
[image002.png](#)
[esig_cb7daa72-4770-4979-b68f-eed4c3985ef2.png](#)

Hi Anissa,

Since my comments in October, our OP has been updated through OPA 31 (conformity exercise with the Region's OP). It doesn't change my comments (ie. I still do not think that the use meets our policies) but I thought it would be helpful to preface my comments with that note.

On Schedule A of the Town's Official Plan, the property is designated Natural Heritage System. In the NHS, *home occupations* and *cottage industries* are permitted with a gross floor area not exceeding 100 sq m or 25% of the residential living area, whichever is lesser. *Home industries* are also permitted in accordance with the policies of Section 4.1.1.6 and 4.1.1.7 of the Plan. The landscape and snow plow business would not however be considered as a *home occupation*, *cottage industry* or *home industry* as per the definitions in the OP, but rather a *horticultural trade use* which is defined as a non-farm business associated with the sale, supply, delivery, storage, distribution, installation, and/or maintenance of horticultural plants and products used in landscaping, but does not include uses associated with the principal agricultural operation. A *horticultural trade use* is permitted in the NHS subject to approval of a zoning by-law amendment and site plan approval, in accordance with sections 4.1.1.14 and 4.1.1.15 of the OP:

4.1.1.14 *Horticultural trade uses*, where permitted within the Agricultural Area and the Regional Natural Heritage System, shall be subject to the policies of this plan and shall require an amendment to the implementing Zoning By-law. Before considering such an amendment, Council shall be satisfied that:

- a) The use meets all the criteria under Section 4.1.1.13 (Small-Scale Businesses);
- b) The farm property accommodating the uses is at least 4 hectares in size;
- c) At least 70% of the arable area of the farm property accommodating the use is dedicated to the growing of horticultural plants;
- d) The use is located within the existing farm building cluster, with only minor rounding out of the cluster permitted provided that there are no tree removals;
- e) The gross floor area of the use does not exceed 500 sq m;
- f) The outdoor storage area does not exceed 1000 sq m;
- g) The use including buildings, outdoor storage, parking areas, and loading/unloading zones is adequately screened from neighbouring properties and public highways;
- h) The use can be accommodated by the private water supply and waste water treatment systems located on the property

4.1.1.15 A horticultural trade use shall also be subject to a Site Plan Agreement in accordance with Section

5.6.3 of this plan.

For your information, here are the definitions, as well as section 4.1.1.13 referenced above:

4.1.1.13 Where permitted within the Agricultural Area and Regional Natural Heritage System, small-scale businesses that provide supplementary income to the farming operation that are located on a commercial farm and secondary to the farming operation may be permitted subject to the policies of this Plan and provided that:

- a) Their scale is minor and does not change the appearance of the farming operation;
- b) Their impact such as noise, odour and traffic on surrounding land uses is minimal and will not hinder surrounding agricultural uses; and
- c) They meeting all criteria as stated in the On-Farm Business Guidelines adopted by Regional Council.

Home Industry means a small scale use providing a service primarily to the rural farming community and which is accessory to a single detached dwelling or agricultural operation, performed by one or more residents of the household on the same property. A home industry may be conducted in whole or in part in an accessory building and may include a carpentry shop, a metal working shop, a welding shop, an electrical shop, or blacksmith's shop, etc. but does not include a motor vehicle repair or paint shop or furniture stripping.

Home Occupation means an activity which provides a service as an accessory use within a single detached dwelling or in an additional to the dwelling or in an accessory building not further than 30 m away from the dwelling and serviced by the same private water and wastewater systems, performed by one or more of its residents of the household on the same property. Such activities may include services performed by an accountant, architect, auditor, dentist, medical practitioner, engineer, insurance agent, land surveyor, lawyer, realtor, planner, hairdresser, desk top publisher or word processor, computer processing provider, teacher or day care provider.

Horticultural trade uses means a non-farm business associated with the sale, supply, delivery, storage, distribution, installation, and/or maintenance of horticultural plants and products used in landscaping, but does not include uses associated with the principal agricultural operation.

I would also speak with the Region because the horticultural trade use policies are new, and in accordance with the Region's OP. We have had other inquiries about similar uses and horticultural trade use seems to be the only definition that captures that use , and have not considered these uses to be a home industry or home occupation. Based on the size alone, I don't believe that the horticultural trade use policies can be met.

I hope this helps. Feel free to call if you have any questions.

Thanks,
Mollie

From: [Kowalyk, Bohdan \(MNRF\)](#)
To: [Conard, Ruth \(MNRF\)](#)
Cc: [Velmurugaiah, Ragina \(MNRF\)](#)
Subject: RE: Request for Comments H/I/2018-2019/261 [REDACTED], 7106 McNiven Rd, Milton
Date: September 28, 2018 2:48:04 PM
Attachments: [image001.jpg](#)

Hello,

Any movable facilities and equipment storage should be moved back from the watercourse to provide it with a buffer of at least 30 metres.

All trees, including seedlings, within 25 metres from proposed new works should be checked for the presence of endangered Butternut and, if found, reported to the MNRF District office.

Regards,

Bohdan Kowalyk, R.P.F.

District Planner, Aurora District, Ontario Ministry of Natural Resources and Forestry
50 Bloomington Road, Aurora, Ontario L4G 0L8
Phone: 905-713-7387; Email: Bohdan.Kowalyk@Ontario.ca

From: Velmurugaiah, Ragina (MNRF)
Sent: September-28-18 1:45 PM
To: michelle.rudman@halton.ca; anthony.campese@halton.ca; Kowalyk, Bohdan (MNRF); mcaissie@hrca.on.ca; mollie.kuchma@milton.ca; deborah.johnson@milton.ca
Cc: Conard, Ruth (MNRF)
Subject: Request for Comments H/I/2018-2019/261 [REDACTED]

Good afternoon,

Please see the attached Request for Comments regarding the above noted application. No hardcopies will follow. Please send your comments directly to the Planner, and please copy me by October 26, 2018.

Kind regards,

Ragina Velmurugaiah

Administrative Support Coordinator



232 Guelph Street | Georgetown, ON | L7G 4B1

Tel: 905-877-3566

Website: www.escarpment.org

Please let me know if you require communication supports or alternate formats.

June 6/19 ①

To whom it may Concern
Hearing File # H/12018-2019/261
Re 7106 McNiven Rd
Private Maintenance
[REDACTED]

I am writing this letter to oppose the operation of a Landscaping / Snowplowing Removal Co from the location listed above. Requesting a development permit not be granted.

Very close neighbour to this operation. Living on McNiven rd for 65 yrs.

[REDACTED] is running a full fledge business from this location. Has been since purchasing this property a least 4yr ago.

Nov 2017 3x burning leaves & other types garbage brought on to the property from his job sites. Smoke from this proceeds to sift down the road in billows of film for most part of the day. Next morning after the burns could smell foul burnt smell in the air.

Mar 26/2018

Same action & procedure as above.

(2)

Sat June 11 2019

Most recent burn (pictures enclosed) fire burned Sat June 11th all day. Billows of smoke until contents were burned down. After that the fire pile smouldered for 3 days. Putting a burned smell in the air for 3 days after.

██████████ has contracts with town Milton & Region for keeping sites clean ie - grass cuts, weeding and garbage pick up from these sites. Milton dump is 15 min away from ██████████ property 7106 McNiven. Guelph dump is 25 min away from ██████████ property. These two places can be utilized by ██████████ instead of dealing with the burning the way ██████████ is doing now. Also ██████████ obviously does not have a burnt permit for these burns?? Mandatory size burn piles.

- Things I object to strongly are
- Staff & vehicles coming in out daily from residential property
 - Trucks, trailers & enclosed trailers being used & stored on property
 - other people's equipment being stored on property.
 - brings home garbage bags full of waste from ██████████ job sites on long trailers or in back pick up truck. This material is accumulated in large pile then fire

③

set to it. Sometimes it could burn & smoulder for days.

- See enclosed photo of recent burn bottles, cans, leaves, branches plastic bags.
- There is also a creek that flows through the property set at the back. What the property is being used for does not do the creek, watershed any justice.
- land is being depleted by the usage of it and way it is being kept.
- Why should this property owner be able to buy this property and run a full fledge commercial business from it. No Development Permit and not making the neighbourhood families to happy.
- Hoping you will choose the right decision for this parcel of property the land itself and the neighbours deserve more



Appendix 5 – Photos of Pro-Mow equipment submitted by the applicant





