

Recommendation Report

Recommending refusal of an application to amend the Official Plan for lands at 6515 McNiven Road

Report PB-34-17

Applicant: Ed Fothergill Planning & Development Inc.

Address: 6515 McNiven Road

Date: November 1, 2017



Property under Application



Burlington Official Plan & Zoning Bylaw



Official Plan designation:
 Kilbride Rural Settlement Area

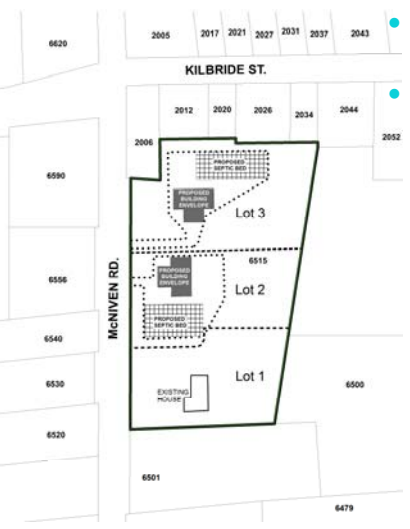
- Open Space (2.1 ha)
- Residential (0.4 ha)

Zoning By-law:
 NEC Development Control Area (no zoning in effect)

Niagara Escarpment Plan designation:
 Escarpment Rural Area, within Minor Urban Centre (Kilbride)

Official Plan Schedule G

Original Application (2016)

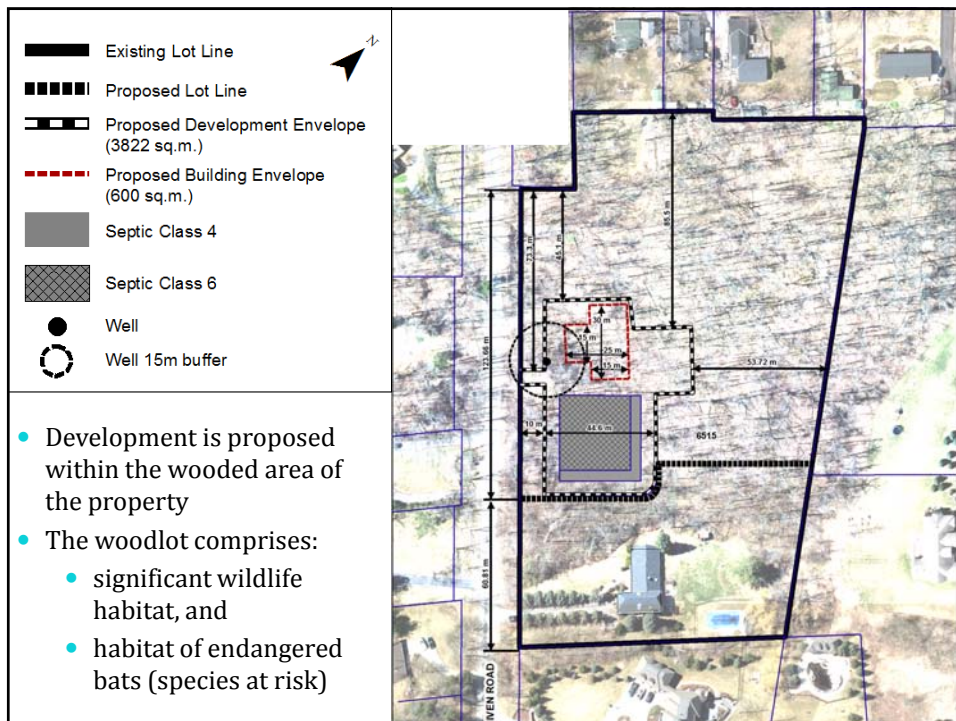


- Original proposal to develop two additional residential lots
- Requested Official Plan Amendment to:
 - redesignate the wooded portion of the site from Open Space to Residential
 - reduce the minimum lot area requirement from 0.8 ha to 0.7 ha
 - Reduce minimum lot frontage requirement from 60 m to 52 m

Revised Application (2017)



- Revised proposal to develop **one** additional residential lot
- Requests Official Plan Amendment to:
 - redesignate the wooded portion of the site from Open Space to Residential
 - Reduce the minimum lot area requirement from 0.8 ha to 0.7 ha



Policy Analysis

- Analysis included consideration of:
 - Provincial Policy Statement (2014)
 - Endangered Species Act
 - Niagara Escarpment Plan (2017)
 - Growth Plan for the Greater Golden Horseshoe (2017)
 - Greenbelt Plan (2017)
 - Halton Region Official Plan (2009)
 - City of Burlington Official Plan

Provincial Policy Statement

- “Development and site alteration shall not be permitted in significant wildlife habitat unless it has been demonstrated that there will be **no negative impacts** on the natural features or their ecological functions” (PPS 2.1.5d)
- **Revised application does not demonstrate that there will be no negative impacts.**

Endangered Species Act

- ESA provides both species protection and general habitat protection for the Species At Risk bats located on the property (ESA s. 9&10)
- **Revised application does not sufficiently avoid or mitigate impacts to protected habitat.**

Niagara Escarpment Plan

- “Growth and development in Minor Urban Centres shall be compatible with and provide for the protection of natural heritage features and functions” (NEP 1.6.8.9a)
- “New lots must protect and enhance existing natural heritage and hydrologic features and functions” (NEP 2.4.5b)
- “Development in other natural features... should be avoided” (NEP 2.7.4)
- **Revised application does not sufficiently protect natural heritage features**

Burlington Official Plan

Request to redesignate from Open Space to Residential

- “the extent of any type of intensification must be evaluated in light of other important planning considerations, such as the protection of the natural environment...” (Part I, 3.0h)
- “Development proposals shall ensure to the maximum possible degree the preservation of significant natural features, including wooded areas...” (Part IV, 3.3j)
- **Application does not ensure preservation of natural features**

Burlington Official Plan

Request to reduce minimum lot area requirement

- Applicant requests minimum lot area be reduced to 0.7 ha
- Hydrogeologist's report concludes that 0.73 ha is sufficient
- Official Plan (Part IV, 3.3c) requires "0.8 ha or as determined by site-specific hydrogeological studies, **whichever is the greater.**"
- Staff recommend the 0.8 ha minimum be maintained.

Consultation with Technical Agencies

- Current proposal is **opposed** by:
 - Region of Halton staff
 - Conservation Halton (CH) staff
 - Ministry of Natural Resources and Forestry (MNR) staff
 - Niagara Escarpment Commission (NEC) staff
 - City Planning staff

Public Consultation

- Standard posting of notice sign & 300m public circulation
- Neighbourhood meeting held June 27, 2016, attended by eight residents
- Statutory Public Meeting held September 13, 2016
- Staff received six letters received from the public
 - All opposed to proposal
 - Express concerns about impacts to drainage, wildlife, groundwater quantity

NEC Development Permit Application

- Applicant has submitted two concurrent applications, both necessary to permit the proposed development:
 - Application to City for Official Plan Amendment
 - Application to NEC for Development Permit
- NEC (Niagara Escarpment Commission) **staff**:
 - Do not support the Official Plan Amendment application
 - Will recommend that the Commission refuse the Development Permit application

Conclusion

- Application does not satisfy requirements of applicable legislation
- City Council has authority to refuse the application
- If approval is contemplated:
 - Region of Halton retains approval authority
 - Approval must be “in principle” only until NEC issues decision on Development Permit
- **Staff recommend that Council:**
 - **Refuse the Official Plan Amendment application**
 - **Endorse comments to the NEC opposing the requested Development Permit**

History of Property



Pre-2001 lot line
(Shown with 2002 air photo)

- Current property is one of 4 created in 2001 from severance of a larger, 6.7 ha property
- Applications to subdivide the old 6.7 ha lot into 7 lots were unsuccessful in 1988, 1992, and 1997
- City staff supported 4 lots in 2001
- Current proposal would bring total to 5

History of Property



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(Shown with 2015 air photo)

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