

Baseline Environmental Assessment: Screening for Species at Risk.

16 & 18 Mill Street,
Georgetown

Part Lot 19, Concession 9
Geographic Township of Esquesing
Town of Halton Hills
Regional Municipality of Halton

August 8, 2020

Prepared for:
AGK Multi-Res GP Ltd.

By:
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16 and 18 Mill Street, Georgetown.

We don't inherit this world from our parents we borrow it from our children.

1.0 Executive Summary

Cotyledon Environmental Consulting (Cotyledon) has retained by AGK Multi-Res GP Ltd. (AGK) to document baseline environmental conditions on 16 and 18 Mill Street, Georgetown (the Property), to determine if species at risk are present on or adjacent to the Property, and if permits are required under the Endangered Species Act.

Detailed observations on the Property were conducted February 6, March 13, and July 29, 2020, and a review of the land use designations and regulatory obligations regarding species at risk was conducted.

The Property is not in the Oak Ridges Moraine or the Niagara Escarpment Planning areas. It is in the Greater Golden Horseshoe Growth Plan Area. A substantial portion of the Property is in the Greenbelt - Urban River Valley designation. This corresponds with the Credit Valley Conservation (CVC) Regulated Area, which reflects the flood plain of nearby Silver Creek.

The Property is zoned medium density residential. Although there are small, scattered, naturalized areas comprised of hedgerow trees, shrubs, personal gardens, and lawns with (mostly) weed species, there are no natural heritage features on the Property. The small naturalized areas on the Property are functionally isolated and cannot be ecologically complexed with nearby natural heritage landscape features. The proposed development will replace the existing structures with an 8-story residential condominium, and will increase the area of greenspace from the current 18% to 27% of the footprint of the Property. The construction will take place entirely within the Property's boundary and the new development will tie into the existing municipal infrastructure, so there will be no off-site impacts.

A review of the Ministry of Natural Resources and Forestry's (MNRF) Natural Heritage Information Centre (NHIC) data base revealed that there are records of four species at risk in the vicinity of the Property: a minnow (*Redside Dace*), an insect (*Rusty-patched Bumble Bee*), and two snakes (*Eastern Ribbonsnake* and *Eastern Milksnake*). Habitat does not exist on the Property to support these four species, and they weren't observed during the site visits, so they cannot be present on the Property. In addition, there are five species at risk whose range includes the upper Credit River watershed and marginally suitable habitat exists on the Property: two bats (*Little Brown Myotis* and *Eastern Small-footed Myotis*), two plants (*Butternut* and *Eastern Flowering Dogwood*), and one reptile (*Eastern Foxsnake*). However, there are no NHIC records of these five species being present in the vicinity of the Property, and none of these species at risk were observed on the Property. In addition, although habitat is present on the Property, it is marginal in extent and quality and not in any way unique or rare, rather it is typical of older urban properties. Therefore, it is unequivocally concluded that there are no species at risk on the Property, and since the proposed development will have no off-site impacts, any species at risk that may exist locally will not be adversely affected. As a result, there are no permits required under the Endangered Species Act.

The Ministry of Environment, Conservation and Parks (MECP) was contacted regarding the species at risk records. The MECP confirmed that they do not provide a regulatory instrument to confirm the presence or absence of species at risk on a specific property and that it is up to the proponent to satisfactorily demonstrate compliance with relevant environmental policy.

The municipal planning authorities and CVC have agreed that an Environmental Impact Study/Assessment is not required.

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3.0 Disclaimer

This study was conducted by Cotyledon, subcontracted by Watters Environmental Group Inc. (Watters), with the authorization of AGK. This report, and the data obtained to produce the report, are the property of AGK. An electronic copy of this report, and all related data and field notes, are retained by Cotyledon and Watters for usual project management and accounting purposes. However, neither the report nor the accompanying files will be given to anyone without the written approval of AGK.

I am pleased to provide this report – *Baseline Environmental Assessment: Screening for Species at Risk - 16 & 18 Mill Street, Georgetown*, dated August 8, 2020. It represents observations and information obtained at the time of the site visits, February 6, March 13, and July 29, 2020, with the caveats identified in the Limitations Section.



Dave McLaughlin
Owner and Principal Scientist
Cotyledon Environmental Consulting

We don't inherit this world from our parents, we borrow it from our children.

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7.0 Limitations

This report is not an Environmental Impact Study/Environmental Impact Assessment. It is a limited scope environmental assessment intended to describe baseline environmental conditions on the Property, review the Property in relation to relevant planning authority environmental designations, address the presence of species at risk on the Property, and determine if permits are required under the Endangered Species Act.

Although observations were made regarding vegetation communities, this report is not a vegetation inventory of the Property, and there was no attempt to characterize the Property according to the Ecological Land Classification for Southern Ontario.

These limitations do not in any way impede the ability to address the objectives/scope of work stated in Section 8.0, rather they set reasonable expectations regarding the detail to which the natural environment on the properties was characterized.

This report can be used to help scope an EIS, if it is determined that one is warranted.

8.0 Scope of Work

The scope of work was very limited. It was defined as:

1. Determine the Property's land use designation in relation to the various municipal planning authorities;
2. Describe the physical environment of the Property;
3. Determine the Property's environmental relationship to adjacent properties and local landscapes;
4. Screen for species at risk on and adjacent to the Property;
5. Identify and obtain regulatory instruments pursuant to the Endangered Species Act, if warranted;
6. Prepare report.

9.0 The Property

The Property that is the subject of this report is actually two municipal properties – 16 Mill Street and 18 Mill Street. Together they are Part of Lot 19, Concession 9, Geographic Township of Esquesing, Regional Municipality of Halton, in the Town of Halton Hills (Georgetown). Together they are simply referred to in this report as *the Property*. Figure 1 illustrates the regional location of the Property. Figure 2 illustrates the local position of the Property.

The Property is older urban residential. The footprint is 100% urbanized, i.e., there are no obvious on-property natural heritage features, although a hedgerow of shrubs and trees lines the east side of 16 Mill St. and there are small, scattered weedy lawn and garden greenspaces.

It is zoned Low Density Residential, LDR1-2. Sixteen Mill St., the east portion of the Property, is about 0.16 ha (0.38 ac) in size. Currently the built-up structure is a single row of townhomes, which is surrounded by pavement for above-ground parking.

Eighteen Mill St., the west portion of the Property, is about 0.07 ha (0.18 ac) in size. It has a single detached house that appears to have at least two apartments, and is also surrounded by pavement for parking. The adjacent addresses are more clearly illustrated in Figure 3, which is a leaf-off ortho-image.

The Property can be accessed from Mill St. The driveway entrance for 16 Mill St. is at:

43° 39' 11.69" N and 79° 55' 22.84" W.

The driveway entrance for 18 Mill St. is at:

43° 39' 11.31" N and 79° 55' 23.25" W.

Combined the two addresses make a single Property of about 0.23 ha (0.56 ac) in size.

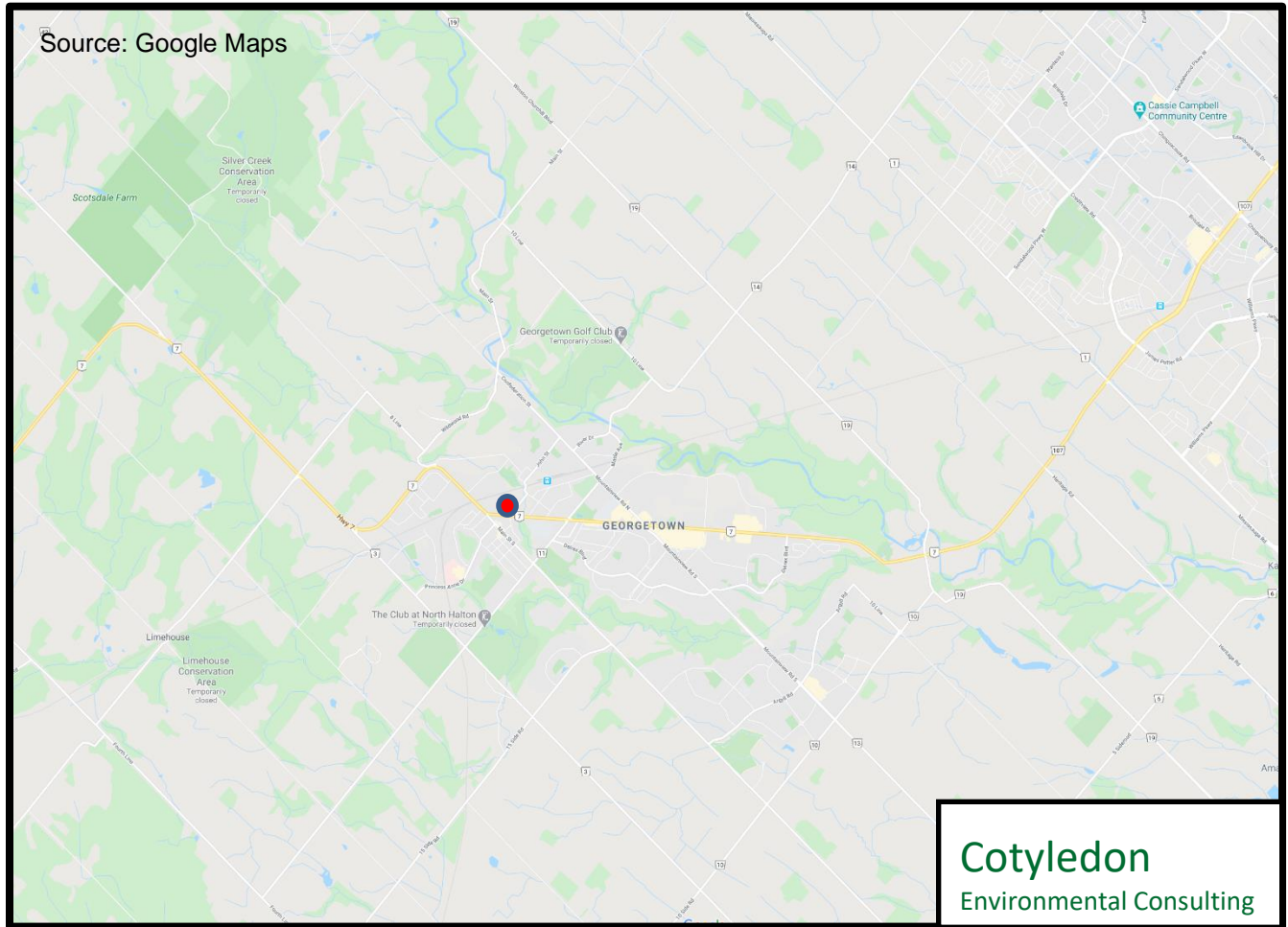


Figure 1: Regional location of the Property.

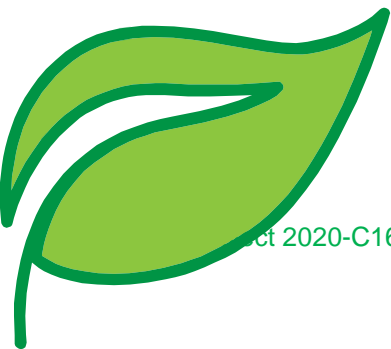




Figure 2: Local position of the Property.



Figure 3: 16 and 18 Mill Street, Georgetown.

10.0 Topography

The Property is relatively flat, falling just 2.52 m from a high point of 245.47 m in the northwest corner to 242.70 m in the southeast corner (Figure 4).

There are no hills, swales, or ravines on the Property. Except for a small weedy grassy area in the southeast corner, a line of shrubs and trees along the east side, and small, scattered lawn and personal gardens, the Property is entirely covered in buildings and paved with asphalt and concrete.

The 243.69 m contour, which approximates the 100 year flood level of the adjacent Silver Creek, cuts across the southeast corner of the property.

There are no storm water retention features on the property. Surface water flows generally southeasterly off of the property, then downgrade to a catch basin on Mill St. This prevents surface water runoff from the Property from directly entering Silver Creek overland.

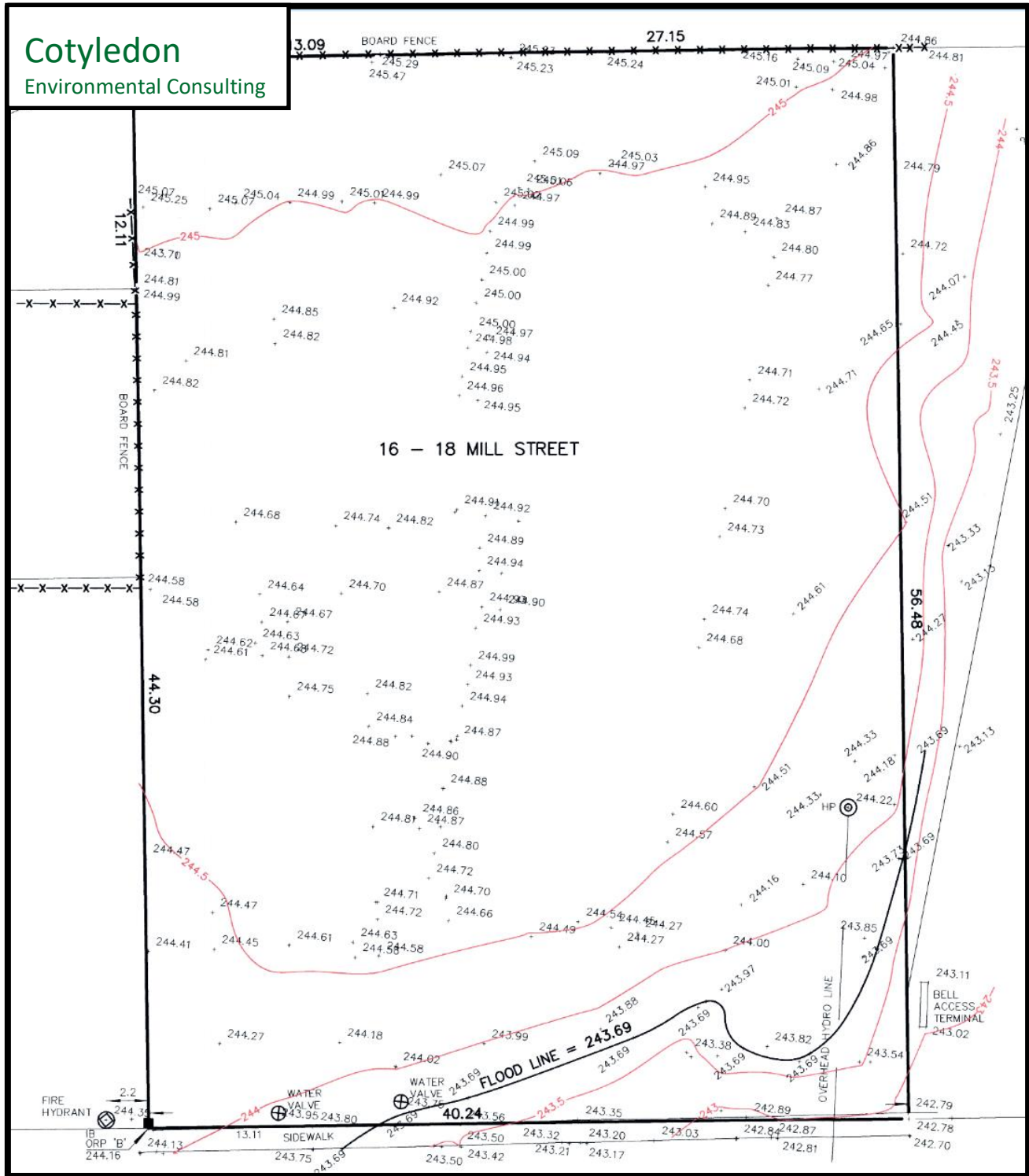


Figure 4: Topographic features of the Property (Source: J.R. Finne, Ontario Land Surveyor).

11.0 Proposed Development

AGK proposes to demolish the two existing residential structures on the Property and replace them with an eight-story structure containing up to 100 residential condominium units. This would require rezoning from the current Low Density Residential (LDR1-2) to High Density Residential (HDR-Special).

The proposed development has about 49% of the Property footprint in buildings, about 27% as landscaped green space, and about 24% as hard surface (concrete and pavement). By comparison, the Property is currently about 26% building, about 18% greenspace and about 56% hard surface. Although the proposal almost doubles the building footprint it also substantially increases the green space on the Property. The increase in green space reflects the municipality's requirement for physical setback from Mill St. and from the Property's edges.

The construction will take place entirely within the existing Property footprint and the new development will tie into the existing municipal roadway, electrical, water and waste water infrastructure. Providing normal precautions are exercised to control the movement and placement of fill and excavate and the activity of construction equipment, no off-site impacts are anticipated.

Figure 5 is a sketch of the proposed development.

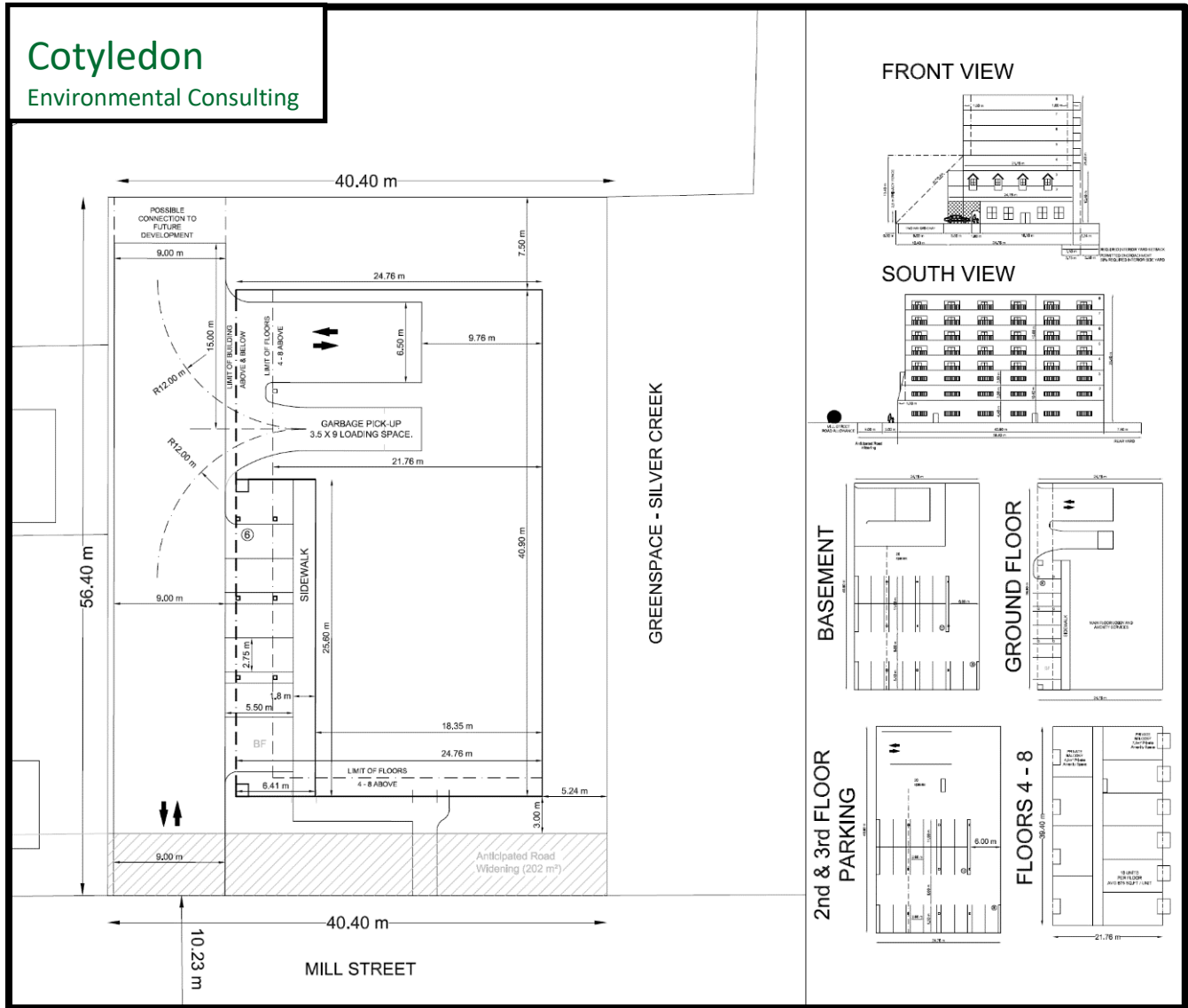


Figure 5: Proposed development (Source: Urban In Mind).

12.0 Regulatory Framework

12.1 Provincial Policy Statement

The Provincial Policy Statement (2014) provides general policies to municipalities to guide development across the province. It is issued under Section 3 of the *Planning Act* and was promulgated April 30, 2014. It replaces the Provincial Policy Statement of 2005.

The preamble of the Provincial Policy Statement states:

“The Provincial Policy Statement provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. The Provincial Policy Statement supports improved land use planning and management, which contributes to a more effective and efficient land-use planning system.”

Section 2.1 of the Provincial Policy Statement refers to protection of Natural Heritage Features. It states that natural features shall be protected for the long term and that development or site alteration is not permitted in:

1. *Significant* wetlands;
2. *Significant* woodlands;
3. *Significant* valley lands;
4. *Significant* wildlife habitat;
5. Areas of Natural and Scientific Interest (ANSI);
6. Coastal wetlands;
7. Fish habitat;
8. Species at Risk habitat, and
9. Land adjacent to 1 - 8 above.

None of these features are present on the Property.

The Provincial Policy Statement represents minimum standards. Municipal planning authorities and Conservation Authorities (CAs) can go beyond the minimum standards and establish additional or more protective policies, providing their policies do not conflict with the Provincial Policy Statement.

12.2 The Regional Municipality of Halton Official Plan

The Regional Municipality of Halton Official Plan designates most of the Property as Urban Area, although a small portion of the southeast corner is directly adjacent to and is likely in the Regional Natural Heritage System and/or the Greenbelt Natural Heritage System, which is the Silver Creek valley (Figure 6).

Section 118 (2b) of the Halton Region Official Plan states in part: *“Not permitting 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”*

And Section (3) *“Require the proponent of any development or site alteration that meets the criteria set out in Section 118 to carry out an Environmental Impact Assessment (EIA), unless: a) the proponent can demonstrate to the satisfaction of the Region that the proposal is minor in scale and/or nature and does not warrant an EIA ...”*

Furthermore, Section 139.3.7 states in part: *“It is the policy of the Region to: (1) Prohibit development or site alteration within the Key Features of the Greenbelt Natural Heritage System, except in accordance with policies of this Plan. (2) Prohibit development or site alteration on lands adjacent to the Key Features of the Greenbelt Natural Heritage System unless the proponent has evaluated the ecological functions of these lands through an Environmental Impact Assessment ...”*

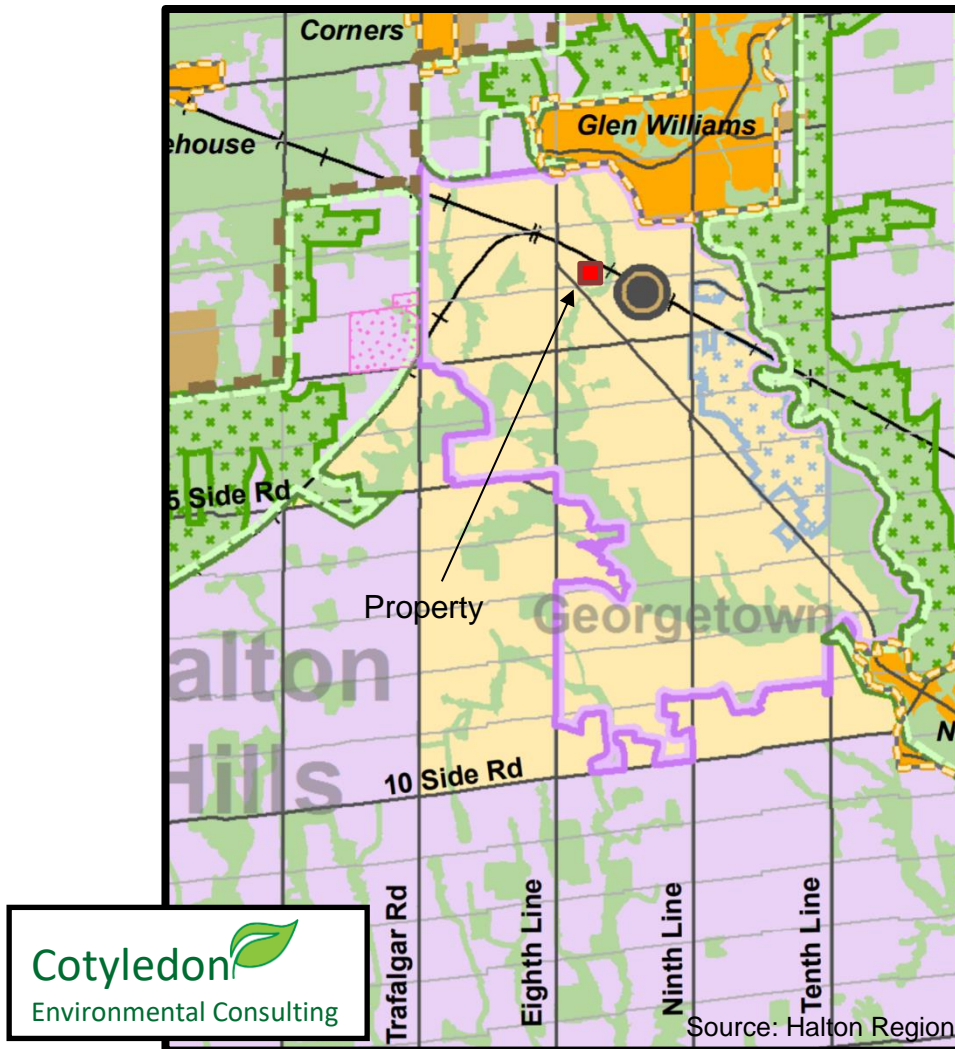


Figure 6: Regional Municipality of Halton Official Plan Land Use Designations.

12.3 The Town of Halton Hills Official Plan

The Town of Halton Hills Official Plan designates the majority of the area of the Property as Medium Density Residential. A small section of the southeast corner is designated as Greenlands (Figure 7). The Greenlands are the Silver Creek valley.

Section B1.2.4 of the Town of Halton Hills Official Plan identifies *Adjacent Lands* as “*all lands partially or wholly within 50 m of the boundary of an Environmentally Sensitive Area.*” The environmentally sensitive area is the Silver Creek Greenlands, and the adjacent lands definition covers the entire Property. In the same Section the Official Plan states in part: “*No development shall be permitted on adjacent lands unless an Environmental Impact Study and/or a Subwatershed study and/or a Geotechnical study is completed and approved by Council, subject to the comments of the appropriate agencies.*”

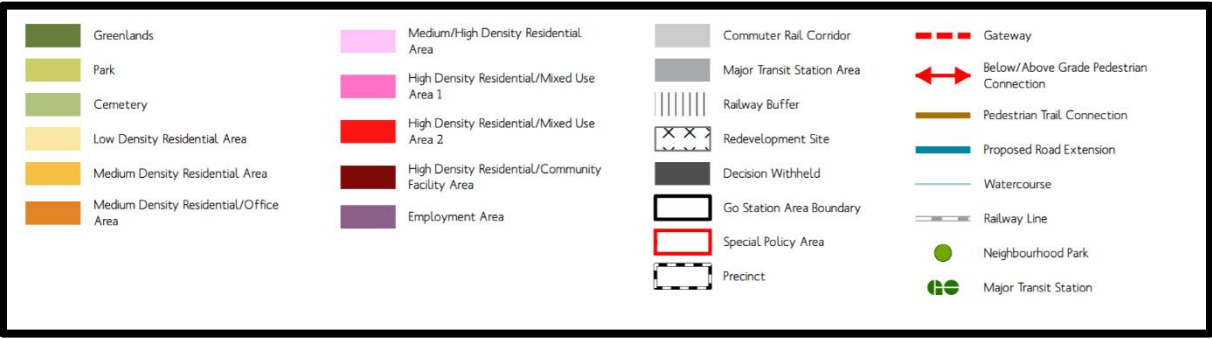
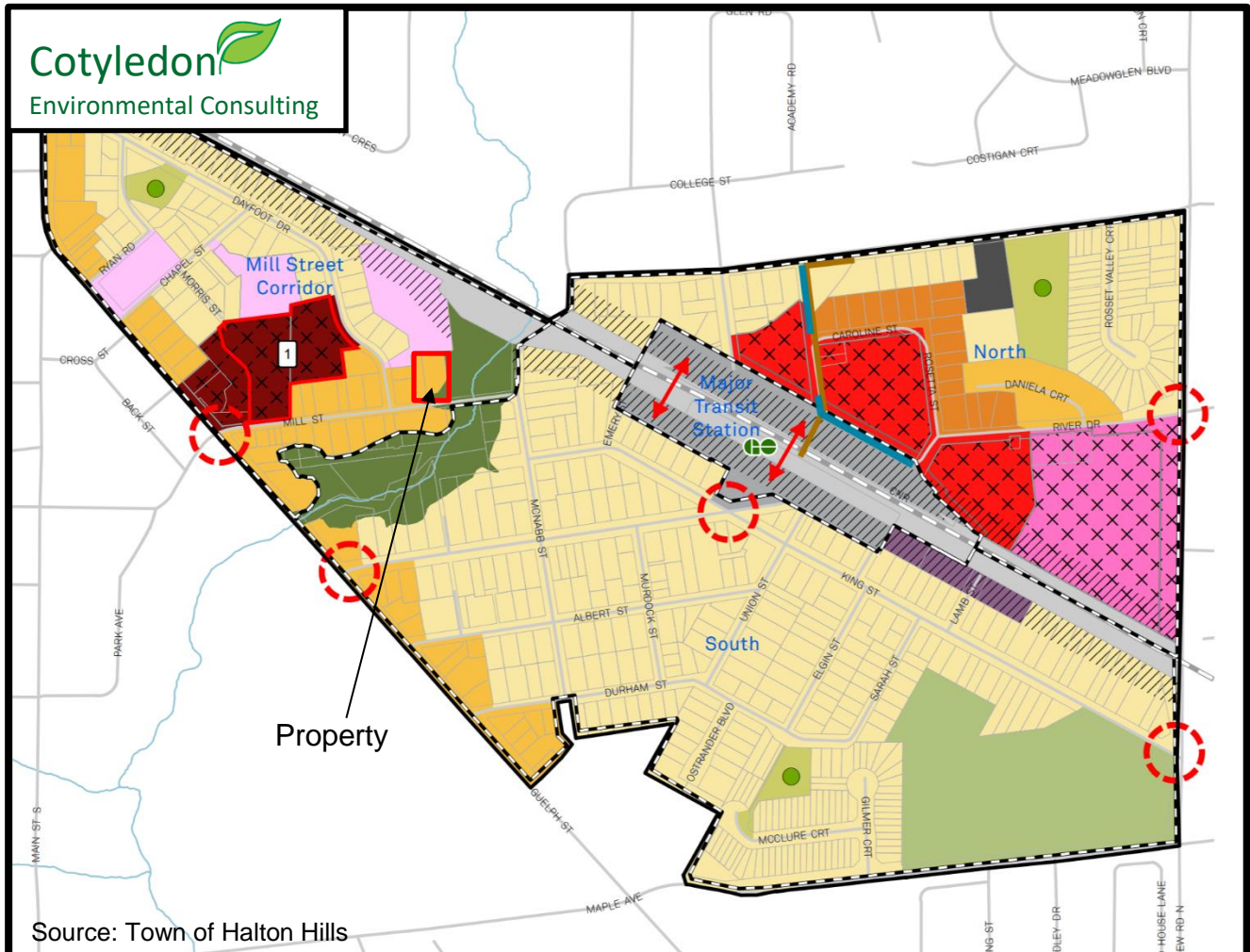


Figure 7: Town of Halton Hills Land Use Designation.

12.4 Credit Valley Conservation and the Need for an EIS

Credit Valley Conservation designates a substantial portion of the Property as Regulated Area, based on the Silver Creek floodplain (Figure 8). This is essentially the Silver Creek 100 year flood line illustrated in Figure 7, with a 30 m buffer. Conservation Authorities routinely add protective buffers to Natural Heritage and Hazard features.

Normally CAs prohibit or severely restrict development in Regulated Areas, because they are intended to protect Natural Heritage features or control flooding or erosion.

However, since the Property is already zoned Medium Density Residential, the municipality is entertaining an application to rezone it to High Density Residential, it is serviced by municipal road, electrical, water and waste water infrastructure, there are no anticipated off-site impacts, other than the CVC Regulated Area there are no Natural Heritage features, and there are no species at risk, ***both CVC and the Town of Halton Hills have agreed that an Environmental Impact Study is not warranted.*** Therefore, it is likely that the CVC Regulated Area designation will not impede the proposed development, although further discussion with both agencies is warranted to ensure compliance with all environmental policies.

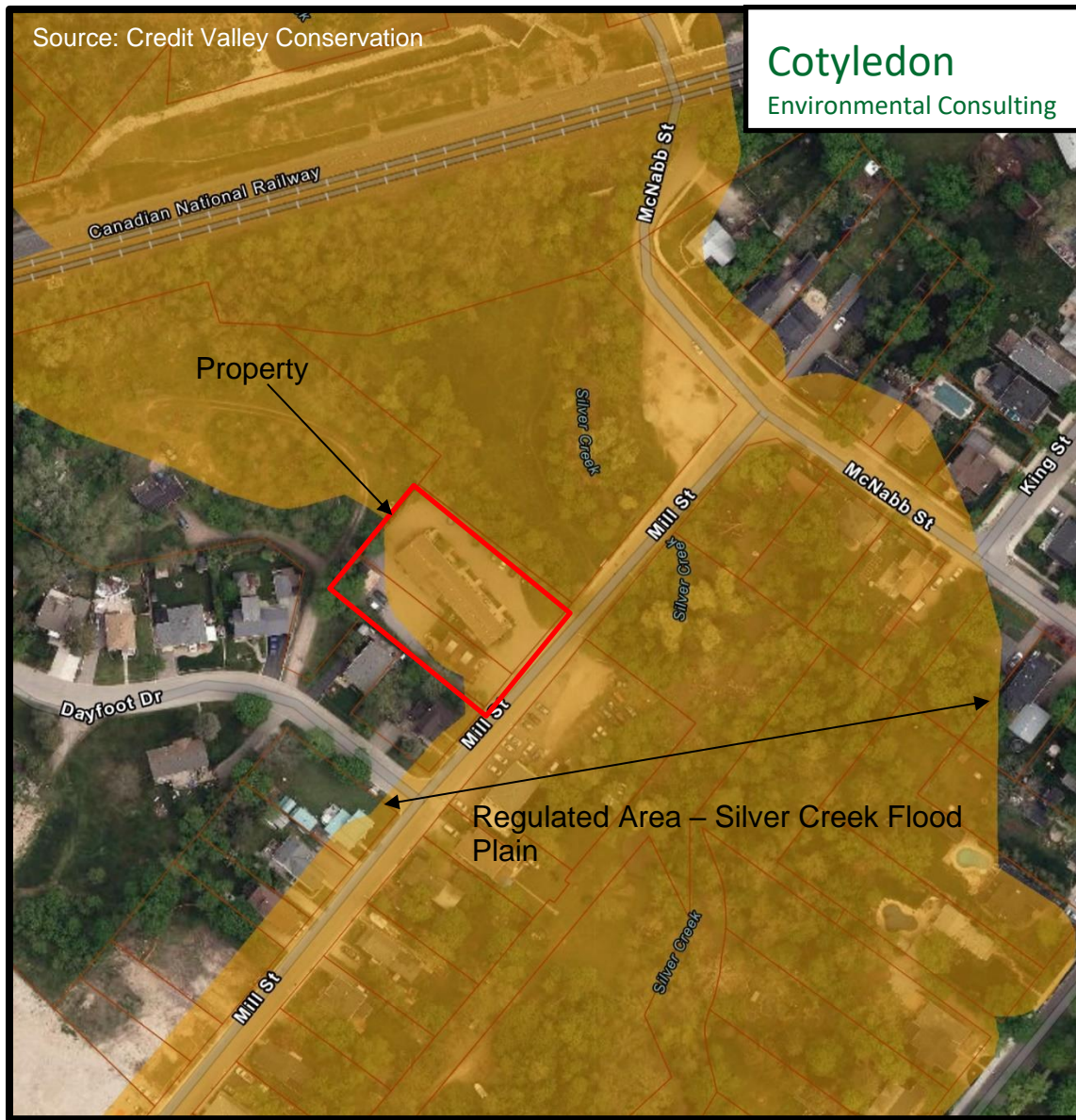


Figure 8: Credit Valley Conservation Regulated Area.

13.0 Natural Features

The Property is in Ecoregion 6E (Simcoe-Rideau). There are no Natural Heritage features on the Property, as would be defined by the Provincial Policy Statement or the Natural Heritage Information Centre. There are no woodlands, wetlands, water courses, ponds, hills, ravines, shores, beaches, alvars or meadows. Therefore, there is no fish habitat or significant wildlife habitat. The closest wetland is the Hungry Hallow Wetland (evaluated *Provincially Significant*), which is about 1,100 m southwest. The closest Area of Natural or Scientific Interest is the Silver Creek Valley ANSI (Life Science), which is about 3,300 m northwest. The closest provincial park is Forks of the Credit Provincial Park (Natural Environment Class), which is about 17.6 km north-northwest.

There are Natural Heritage features adjacent to the Property (Figure 9). The closest water course, Silver Creek, is a cold water stream about 25 to 30 m immediately east of the Property. Municipal woodlands are adjacent to the north of the Property and along the Silver Creek meander belt. Since the proposed development will have no off-site impacts there will be no adverse effects on these nearby natural features.

The Property is not in the Oak Ridges Moraine or the Niagara Escarpment Planning areas. It is in the Greater Golden Horseshoe Growth Plan area. Most of 16 Mill Street and a portion of 18 Mill Street is in the Greenbelt (Urban River Valley – Figure 10). This area roughly corresponds to the CVC Regulated Area (Figure 8), which approximates the 100 year flood line of Silver Creek, with a protection buffer. Normally, development would be restricted or moderated in a Regulated Area. However, as explained in Section 12.4, both CVC and municipal planning authorities have agreed that an Environmental Impact Study is not warranted, so the Greenbelt designation is unlikely to impede the proposed development, providing the development is compliant with all other relevant environmental policies.

Although there are no Natural Heritage features on the Property, there are some naturalized areas. Currently, there is only about 442 m² of green space on the Property (17.5% of the Property's footprint). The proposed development will increase the landscaped green space to about 27% of the Property. The existing greenspace is a mixture of small, scattered front/back door private gardens (78 m²) consisting of grass and landscape plantings of annual and perennial flowers (Photo 1), and property line scrub bushes and trees (300 m², Photo 2). The trees along the east and west sides of the Property were predominantly Manitoba Maple with scattered White Ash, Norway Maple and Black Walnut and a ground cover of residual lawn grass and weed species, such as Garlic Mustard, Evening Nightshade, Ragweed, Queen Anne's Lace, Virginia Creeper, Canada Thistle, Crown Vetch, Wild Cucumber, Wild Grape, Orange Hawkweed, Common Yarrow, Field Bindweed, Robin's Plantain and Dandelion. The ground vegetation is typical of dry, disturbed sites.

At least one resident was providing a supply of peanuts, which was attracting a steady traffic of Chipmunks and Black Squirrels from the adjacent forested creek valley.



Figure 9: Natural Heritage Features.





Photo 1: Annual and perennial greenspace plantings.



Photo 2: Shrubs and trees along the east and west property edges were dominated by Manitoba Maple. Ground vegetation is mostly weed species.

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The Property was typical of an older, urban, medium-density residential property. Naturalized greenspaces were marginal with the ground vegetation is dominated by invasive weed species and trees and shrubs encroaching from adjacent natural areas. The few naturalized areas on the property are small and isolated and do not contribute to nor are they ecologically complexed with the nearby natural heritage landscape features.



Photo 3: Greenspace at the southeast corner of the Property is mostly species typical of dry waste sites, e.g. Queen Anne's Lace, Ragweed, Plantain, Goat's Beard, Dandelion.

14.0 Species at Risk Screening

14.1 NHIC Records on or Near the Property

No species at risk were observed on the Property during the site visits in February, March and July. On-line research was conducted to determine if there are records of species at risk on the Property or in the local area.

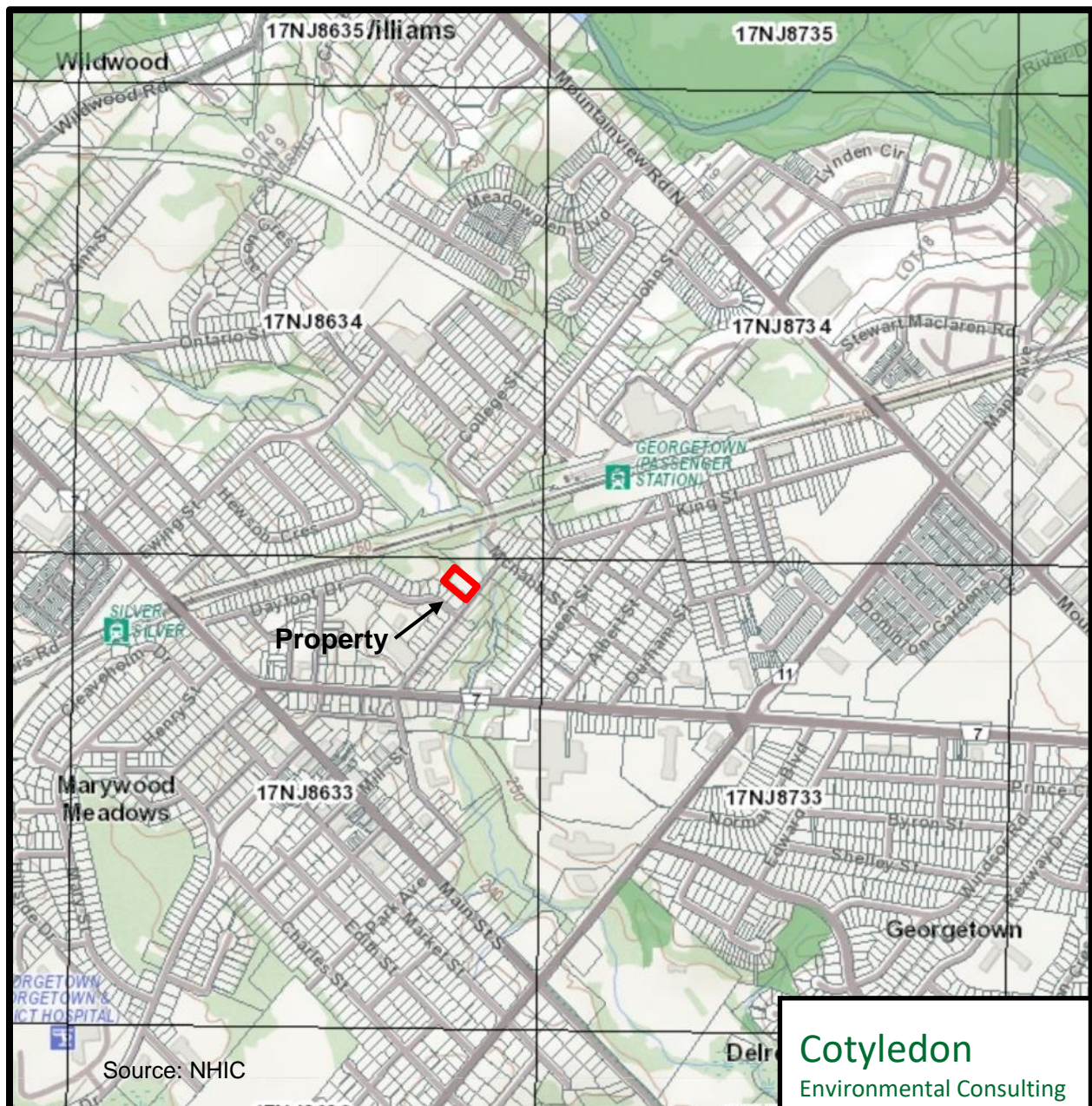
The Natural Heritage Information Center (NHIC) database includes records for species at risk. The NHIC data are cataloged in 1 km² grids. Figure 11 illustrates the four NHIC grids incorporating and adjacent to the Property. These grids ranged from about 300 m south of the Property to about 2 km north. Although distant, this is within foraging range of larger mammals, birds, and bats. Sixteen and 18 Mill St. are in the northeast corner of NHIC grid ID 17NJ8633. For this grid the NHIC lists two species at risk - the *Redside Dace* and the *Rusty-patched Bumble Bee*. Because birds and animals can travel between nesting, foraging, and staging sites, regulatory authorities and municipal planning agencies expect the proponent to determine not only if species at risk exist on the Property, but whether the Property has the potential to support species at risk should they travel through or forage on the Property. Therefore, the adjacent three NHIC grids were also explored. Because the Property is so close to the northeast corner of grid 17NJ8633, the appropriate adjacent grids to consider are 17NJ8634 (adjacent to the north), 17NJ8734 (adjacent to the northeast), and 17NJ8733 (adjacent to the east). When the four NHIC grids are considered, the species at risk list includes the *Redside Dace*, the *Rusty-patch Bumble Bee*, the *Eastern Ribbonsnake*, and the *Eastern Milksnake*.

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Figure 11: Species at Risk in the Four NHIC Grids Adjacent to the Property

| Species | | SRank | SARO | NHIC Grid |
|--------------------------|-------------------------|-------|------|--|
| Redside Dace | Clinostomus elongatus | S2 | END | 17NJ8633, 17NJ8634 17NJ8733, 17NJ8734 |
| Rusty-patched Bumble Bee | Bombus affinus | S1 | END | 17NJ8633 |
| Eastern Ribbonsnake | Thamnophis sauritus | S4 | SC | 17NJ8733 |
| Eastern Milksnake | Lampropeltis triangulum | S4 | NAR | 17NJ8733 |



14.2 Redside Dace (from <https://www.ontario.ca/page/species-risk-ontario>)

The *Redside Dace* is SARO classified as *endangered*. This means the species lives in the wild in Ontario but is facing imminent extinction or extirpation.

The *Redside Dace* is a minnow, which reaches up to 12 cm long. It is unique in that it leaps from the water to catch insects. The *Redside Dace* is found in pools and slow-moving areas of small cold water streams and headwaters with a gravel bottom. They are generally found in areas with overhanging grasses and shrubs.

The *Redside Dace* currently exists in patches around the Great Lakes basin and headwater streams in south-central Ontario, such as the Credit River.

Habitat loss and degradation caused by urban and agricultural development are the most significant threats to *Redside Dace*.

Development in the watershed can alter stream flow and shape, cause sedimentation, increase water temperature and remove streamside vegetation that the *Redside Dace* needs for cover and food.

The *Redside Dace* cannot exist on the Property because there are no water bodies of any kind on the Property. The NHIC record likely refers to Silver Creek, a tributary of the Credit River, which at its closest is approximately 30 m north-north east of the Property.

The proposed development of the Property will have no off-site impacts because all construction activity will be confined to the footprint of the Property and the new structures will tie into the existing municipal road, electrical, waste water and storm water infrastructure. Therefore, the *Redside Dace* that may exist locally (but not on the Property) will not be impacted by the proposed development.



Photo 4: Redside Dace.

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14.3 Rusty-patched Bumble Bee (from <https://www.ontario.ca/page/species-risk-ontario>)

The *Rusty-patched Bumble Bee* is SARO classified as *endangered*.

It is a medium to large bee, ranging from about one to two cm long. Like most bumble bees it is yellow and black, but males and workers have a distinctive rusty-coloured patch on the second segment of the abdomen. The *Rusty-patched Bumble Bee* feeds on pollen and nectar from flowering plants that can be found in a wide variety of open habitats, such as mixed farmland, urban settings, savannah, open woods and sand dunes.

The *Rusty-patched Bumble Bee* was once widespread and common in eastern North America. The species has suffered rapid, severe decline throughout its entire range since the 1970s, with only a handful of specimens collected in recent years in Ontario. The only sightings in Canada since 2002 have been at The Pinery Provincial Park on Lake Huron.

The cause of the decline of the *Rusty-patched Bumble Bee* is unknown. Suspected causes include pesticide use and the spread of disease from bumble bees used to pollinate greenhouse vegetable crops. Threats to remaining populations are mainly related to habitat loss.

There is very little flowering vegetation on the Property, and no sustainable/suitable bee foraging habitat. Not surprising, considering the extent of hard urban infrastructure and the lack of habitat, no bees of any species were observed on the Property.

Considering the lack of suitable habitat on the Property, and the lack of records anywhere in the province in the last 18 years, the *Rusty-patched Bumble Bee* is not present on the Property. Because there will be no off-site impacts from the proposed development, there will be no adverse effects on bees of any species that may be present locally.



Source: Internet Stock Photo

Photo 5: Rusty-patched Bumble Bee.

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14.4 Eastern Ribbonsnake (from <https://www.ontario.ca/page/species-risk-ontario>)

The *Eastern Ribbonsnake* is SARO classified as *special concern*. This means the species lives in the wild in Ontario, is not endangered or threatened, but may become threatened or endangered due to a combination of biological characteristics and identified threats.

The *Eastern Ribbonsnake* is a slender snake that grows to about 70 cm in length. It has bright yellow stripes running down its back and sides, contrasting sharply with its black back. *Eastern Ribbonsnakes* have a white chin, whitish-yellow belly and a distinct white crescent in front of each eye that can be used to distinguish it from the much more common gartersnake.

The *Eastern Ribbonsnake* is usually found close to water and wetlands where it feeds on frogs, other amphibians and small fish.

The *Eastern Ribbonsnake* occurs throughout southern and eastern Ontario and is common in parts of the Bruce Peninsula, Georgian Bay and eastern Ontario. The loss of wetlands and the spread of urbanization is the main threat to this, and other snake species. Other threats include declines in amphibian prey, persecution by people who mistakenly believe it is dangerous, road mortality, and predation by pets.

No snakes of any species were observed on the Property, and the habitat doesn't exist on the Property to support the *Eastern Ribbonsnake*. Because there will be no off-site impacts from the proposed development, there will be no adverse effects on snakes of any species that may be present locally.



Photo 6: Eastern Ribbonsnake.

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14.5 Eastern Milksnake (from <https://www.ontario.ca/page/species-risk-ontario>)

The *Eastern Milksnake*, despite being listed in the NHIC database, is no longer listed in O. Reg. 230/08, revised Aug/18 (SARO website accessed May 12, 2020). It is classified as NAR - no longer at risk.

The *Eastern Milksnake* is grey or tan with alternating red or reddish brown blotches that are distinctly outlined in black along its back and sides. It can grow to over 1 m in length, although most individuals are much smaller.

The *Eastern Milksnake* prefers open habitats, such as rocky outcrops, fields and forest edges. In rural areas this snake may be common around barns where they feed on abundant mice.

Human persecution is a significant threat to the *Eastern Milksnake*. It is often killed on site due to its resemblance to the venomous *Massasauga Rattlesnake* and its tendency to vibrate its tail when disturbed. Habitat loss due to urbanization, road construction and conversion of natural areas to agricultural uses are further threats to *Eastern Milksnake* populations in Ontario.

No snakes of any species were observed on the Property, and the habitat doesn't exist on the Property to support the *Eastern Milksnake*. Because there will be no off-site impacts from the proposed development, there will be no adverse effects on snakes of any species that may be present locally.



Photo 7: Eastern Milksnake.

14.6 Screening for Other Species at Risk

In addition to the four species at risk identified through the NHIC database, the habitat may exist on the Property to support other species at risk if they are present locally and travel through or forage on site. There are currently 243 species of plants, mammals, insects, birds, amphibians, reptiles and mollusks listed in Ontario Regulation 230/08; Species at Risk list. The known ranges in Ontario and habitats for each of these species were screened to see if the Property could potentially support these species at risk. In order to be considered, their range had to include the upper tributaries of the Credit River watershed and their habitat had to be consistent with the urban, sparsely vegetated landscape of the Property.

The Property is highly urbanized. There are no water bodies, water courses, shores, ravines, wetlands, forests, grasslands or alvars on the Property, although some of these landscapes exist locally.

Table 1 summarizes the species at risk screening exercise. As mentioned previously, the NHIC has records of four species at risk on or in the vicinity of the property (*Redside Dace*, *Rusty-patched Bumble Bee*, *Eastern Milksnake* and *Eastern Ribbonsnake*). However, the habitat does not exist on the property to support any of these species, and none of them were observed during the three site visits, so the NHIC record must relate to nearby areas.

Habitat does exist on the Property to potentially support five more species at risk whose range includes the upper Credit River watershed, although the Property's habitat is marginally suitable, small, isolated, and likely unsustainable. These species are: *Eastern Small-footed Myotis* and the *Little Brown Myotis* (both bats), *Eastern Flowering Dogwood* and *Butternut* (both plants), and *Eastern Foxsnake*. It should be emphasized that the Property doesn't include special or unique habitat for these five species, and what is present is marginal in quality. Virtually any old urban property that has older structures and is near naturalized areas where flying insects are present, is potential bat habitat. In the summer bats roost during the day under eaves and sills, or where structural openings are present, in attics of garages and other buildings, as well as tree cavities. At night they will forage extensively in nearby natural areas. *Dogwood* and *Butternut* trees, which both prefer lightly-shaded cover, will seed into areas along forest edges, openings in woodlands, and disturbed areas such as property lines, in older urban areas. The *Eastern Foxsnake* could live in any rocky or disturbed area that is close to a watercourse.

Despite the presence of marginally suitable habit on the Property, none of these five species were observed during the three site visits, and there are no NHIC records for any of these species in the area.

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Therefore, after conducting three site visits, consulting the on-line NHIC database, and reviewing the entire O. Reg 230/08 species at risk list, it is unequivocally concluded that the four species at risk identified in the NHIC database are not present on the Property.

Also, the additional five species at risk, for which there is marginal on-property habitat, were not observed and there are no local NHIC records, therefore do not exist on the Property. Furthermore, the proposed development will have no off-site impacts so that species at risk that may exist locally will not be adversely affected.

Table 1: Species at Risk that Potentially Exist on the Property.*

| Type of Species at Risk | Number of Species at Risk In O. Reg. 230/08 | Range Includes the Upper Credit River Watershed | Habitat Exists on Property | NHIC Record on or Near the Property | Property Has Potential to Support | Observed on Property |
|-----------------------------|---|---|----------------------------|-------------------------------------|-----------------------------------|----------------------|
| Amphibians | 10 | 1 | 0 | 0 | 0 | 0 |
| Birds | 41 | 22 | 0 | 0 | 0 | 0 |
| Fish | 31 | 5 | 0 | 1 ¹ | 0 | 0 |
| Insects | 23 | 6 | 0 | 1 ² | 0 | 0 |
| Lichens & Mosses | 4 | 0 | 0 | 0 | 0 | 0 |
| Mammals | 16 | 3 | 2 | 0 | 2 ³ | 0 |
| Mollusks (Snails & Mussels) | 18 | 0 | 0 | 0 | 0 | 0 |
| Plants | 77 | 8 | 3 | 0 | 2 ⁴ | 0 |
| Reptiles | 23 | 6 | 1 ⁵ | 2 ⁶ | 1 | 0 |
| Total | 243 | 51 | 6 | 4 | 5 | 0 |

1 – Redside Dace
 2 – Rusty-patch Bumble Bee
 3 – Eastern Small-footed Myotis (bat) & Little Brown Myotis (bat)
 4 – Eastern Flowering Dogwood & Butternut
 5 – Eastern Foxsnake (Carolinian Population)
 6 – Eastern Ribbonsnake & Eastern Milksnake
 *Although the Property may have the potential to support species at risk, none were observed and there are no local NHIC records.

15.0 Correspondence with MECP Regarding Species at Risk and the Need for Endangered Species Act Permits

In a pre-consultation meeting with the Town of Halton Hills and CVC, which included a site visit, the planning authorities waived the requirement for an Environmental Impact Assessment (Study) because they concurred that there are no natural heritage features on the Property. Furthermore, they determined that the proposed development will not impact nearby natural heritage features (there will be no off-site impacts). In their correspondence with the proponent the Town planners also stated “*Regional staff note that the subject property is in proximity to records of endangered species in the area, therefore Regional staff require that consultation with the Ministry of Environment, Conservation and Parks (MECP) be undertaken to determine if the regulated habitat of this species is on the property or adjacent lanes or if there are any requirements under the Endangered Species Act, including the requirement for an EIA. We will require this documentation to be submitted as part of the application process.*”

The MECP, Species at Risk Branch, was contacted to confirm there are no species at risk records specific to the Property. Regrettably, during the COVID-19 pandemic, routine communication with regulatory agencies can be protracted. Cotyledon emailed the MECP Species at Risk Office May 13, 2020 regarding a request to confirm the presence of species at risk on or adjacent to the Property. In the absence of a response, follow up emails were sent June 18, June 25 and July 23, as well as several phone messages, none were returned. It wasn't until July 23, 2020 that Paul Heeney, Manager, Permissions and Compliance, Species at Risk Branch, Land and Water Division, MECP, spoke with Cotyledon regarding the procedure to confirm the presence of species at risk. In an email received August 5, 2020, Mr. Heeney confirmed that the MECP does not provide a regulatory instrument to confirm the presence or absence of species at risk on a property, and re-affirmed that it is up to the proponent to satisfactorily demonstrate compliance with relevant environmental policy, including the presence of species at risk. Mr. Heeney also confirmed that if the proponent illustrates that species at risk are not present on the property, and that the proposed development will not impact species at risk that may exist nearby the property, then there would be no need for permits under the Endangered Species Act.

This correspondence is provided in Appendix 1.

As clearly illustrated in Section 14, there are no species at risk on the Property, and the proposed development will not have any off-site impacts, so there will be no adverse effects to species at risk that may exist locally. Therefore, Endangered Species Act permits are not required.

16.0 Conclusions

Cotyledon has retained by AGK to document baseline environmental conditions on 16 and 18 Mill Street, Georgetown, and specifically to determine the presence of species at risk, and to determine if permits are required under the Endangered Species Act.

Detailed observations on the Property and the adjacent properties, were conducted February 6, March 13, and July 29, 2020, and a review of the regulatory obligations regarding species at risk was conducted, as well as the relevant environmental planning policies.

The Property is not in the Oak Ridges Moraine or the Niagara Escarpment Planning areas. It is in the Greater Golden Horseshoe Growth Plan Area. A substantial portion of the Property is in the Greenbelt - Urban River Valley. This corresponds with CVC's Regulated Area, which reflects the flood plain of nearby Silver Creek.

The Property is zoned medium density residential, and is 100% urbanized. Although there are scattered, small, naturalized areas comprised of hedgerow trees, shrubs, personal door-side gardens and lawn areas predominated by (mostly) weed species, there are no natural heritage features on the property, as defined by NHIC and the various municipal planning authorities. The small naturalized areas on the Property are ecologically isolated and cannot be complexed with nearby natural heritage features.

The proposed development will replace the existing structures with an 8-story residential condominium and will actually increase the area of greenspace from 18% to 27% of the footprint of the Property. The construction will take place entirely within the Property's boundary and the new development will tie into the existing municipal road, electrical, water and waste water infrastructure, so there will be no off-site impacts.

A review of the MNRF NHIC on-line data base revealed that there are records of four species at risk in the immediate vicinity of the Property: a minnow (*Redside Dace*), an insect (*Rusty-patched Bumble Bee*), and two snakes (*Eastern Ribbonsnake* and *Eastern Milksnake*). Habitat does not exist on the Property to support these four species, and there weren't observed during three site visits, so they cannot be present on the Property. In addition, there are five species at risk whose ranges include the upper Credit River watershed and marginally suitable habitat exists on the Property: two bats (*Little Brown Myotis* and *Eastern Small-footed Myotis*), two plants (*Butternut* and *Eastern Flowering Dogwood*), and one reptile (*Eastern Foxsnake*). However, there are no NHIC records of these five species being present in the area and none of the five species at risk were observed on the Property. Therefore, it is unequivocally concluded that there are no species at risk on the Property, and since the proposed development will have no off-site impacts, any species at risk that exist locally will not be adversely affected. As a result, there are no permits required under the Endangered Species Act.

The MECP, Species at Risk Branch, was contacted regarding the species at risk records for the area. The MECP confirmed that they do not provide a regulatory

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instrument to confirm the presence or absence of species at risk on a property and that it is up to the proponent to satisfactorily demonstrate compliance with relevant environmental policy.

The municipal planning authorities and Credit Valley Conservation have agreed that an Environmental Impact Assessment (Study) is not required.

17.0 References

Background documentation was obtained through a variety of sources.

AGK provided a preliminary development proposal.

Topographic and municipal assessment parcel maps were obtained through the MNR's interactive on-line mapping tool (<https://www.ontario.ca/page/topographic-maps>) and Google Maps (<https://www.google.ca/maps/@43.664111,-79.7599573,15z>).

The NHIC data for the property and the immediate area were obtained via the MNR's Natural Heritage Area site (http://www.gisapplication.lrc.gov.on.ca/mamnh/Index.html?site=MNR_NHLUPS_NaturalHeritage&viewer=NaturalHeritage&locale=en-US).

The land regulated by the CVC was identified through their mapping website <https://cvc.ca/planning-permits/regulation-mapping/>

Information on ecological land classification systems was reviewed at (<https://www.ontario.ca/page/introduction-ecological-land-classification-systems#section-0>).

Region of Halton Official Plan
[https://www.halton.ca/The-Region/Regional-Planning/Regional-Official-Plan-\(ROP\)-\(1\)](https://www.halton.ca/The-Region/Regional-Planning/Regional-Official-Plan-(ROP)-(1))

Town of Halton Hills Official Plan
<https://www.haltonhills.ca/en/business/official-plan.aspx>

Forestry Act. Revised Statutes of Ontario. 1990
Website accessed January 29, 2020
<https://www.ontario.ca/laws/statute/90f26>

Development Proposal. Urban In Mind. Burlington, Ontario.

Lee H.T., W.D. Bakowsky, J. Riley, J. Bowles, M. Puddister, P. Uhlig and S. McMurray. 1998. Ecological Land Classification for Southern Ontario: First Approximation and Its Applications. SCSS Field Guide FG-02.
Website accessed January 12, 2020
<https://www.ontario.ca/page/introduction-ecological-land-classification-systems#section-0>

Natural Heritage Reference Manual for Natural Heritage Policies of the Provincial Policy Statement, 2005 Ontario Ministry of Natural Resources Second Edition March 18, 2010
Website accessed January 29, 2020
<http://www.ontla.on.ca/library/repository/mon/24004/297495.pdf>

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Ontario Government. Species at Risk in Ontario as listed in Ontario Regulation 230/08. <https://www.ontario.ca/page/species-risk-ontario>

Ontario Geological Survey 1991. Bedrock geology of Ontario, southern sheet; Ontario Geological Survey, Map 2544, scale 1: 1 000 000.

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Ontario Wetland Evaluation System. 2014. Southern Manual, 3rd Edition, Version 3.3. <http://files.ontario.ca/environment-and-energy/parks-and-protected-areas/ontario-wetland-evaluation-system-southern-manual-2014.pdf>

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Ontario Government. 2018. *The Ecosystems of Ontario, Part 2: Ecodistricts*. Science and Research Branch, Ministry of Natural Resources and Forestry. Science and Research Technical Report TR-26.

Rowe, J.S. 1972. *Forest Regions of Canada*. Canadian Forestry Service, Department of the Environment. Catalog Number FO 47-1300.

Topographic Sketch for Building Permit Application. January 17, 2020. J.R. Finnie
Ontario Land Surveyor, Erin Ontario.


Ontario Nature <https://ontarionature.org/programs/citizen-science/reptile-amphibian-atlas/milksnake/>

18.0 Appendix 1: Correspondence with the Ontario Ministry of the Environment, Conservation and Parks, Species at Risk Office.


Email 1: Cotyledon to (generic) MECP Species at Risk Office.

Mail

Property Development Inquiry

 Dave McLaughlin <mclaughlin.environmental@gmail.com>
5/13/2020 4:03 PM

To: Species at Risk (MECP)

 Fix X NHIC Grids.pdf
244.46 KB

Hello,

I have been retained by AGK Multi-Res GP Ltd. to assist with their re-development of two urban properties in Georgetown. The property addresses are 16 and 18 Mill Street, Town of Halton Hills (Georgetown). The two properties are adjacent and will be re-developed into one 8-story structure of residential condominiums.

In a pre-consultation meeting with the Town of Halton Hills and Credit Valley Conservation, which included a site visit, the planning authorities waived the requirement for an Environmental Impact Assessment as there are no natural heritage features on the properties, and they determined the proposed development will not impact nearby regional natural heritage features. In their correspondence with the proponent the Town planners also stated "Regional Staff note that the subject property is in proximity to records of an Endangered Species in the area, therefore Regional staff require that consultation with the Ministry of Environment, Conservation and Parks (MECP) be undertaken to determine if the regulated habitat of this species is on the property or adjacent lands or if there are any requirements under the Endangered Species Act including the requirement for an EIA. We will require this documentation to be submitted as part of the application process."

In the preliminary environmental background work on the property I consulted the Natural Heritage Information Center (NHIC) database for information on species at risk and other natural heritage features. The attached figure illustrates the four NHIC grids incorporating and adjacent to the properties. 16 and 18 Mill St. are in the extreme NE corner of NHIC grid ID 17NJ8633. For this grid the NHIC lists two species at risk - the *Redside Dace* and the *Rusty-patched Bumble Bee*. In addition, regulatory authorities, specifically conservation authorities, expect the proponent to determine not only if species at risk exist on the property, but whether the property has the potentiality to support species at risk should they travel through or forage on the property. Therefore, the adjacent 3 NHIC grids were also explored. Because the property is so close to the NE corner of grid 17NJ8633, the appropriate adjacent grids to consider are 17NJ8634 (adjacent to the north), 17NJ8734 (adjacent to the NE), and 17NJ8733 (adjacent to the east). When the four NHIC grids are considered, the species at risk list includes the *Redside Dace*, the *Rusty-patch Bumble Bee*, the *Eastern Ribbon Snake*, and the *Eastern Milk Snake*.

Clearly, the *Redside Dace* cannot exist on the properties, as it is a minnow and requires a cold water stream. There are no water courses on the property. The NHIC records obviously refer to Silver Creek, which is the stream east of the properties.

The *Rusty-patch Bumble Bee*, like most bee species, requires an abundance of flowering plants to feed on. Although it can exist in well landscaped urban areas it prefers mixed farmland, Savannah, open woods and sand dunes. These habitats do not exist on the properties. In addition, this bee species is, regrettably, extremely rare. The only sightings in Canada since 2002 have been at The Pinery Provincial Park on Lake Huron. The lack of recent sightings in Canada not-with-standing, there is no suitable habitat on the properties to support this or other bee species.

The *Eastern Ribbon Snake* is usually found close to water, as its main food source is frogs and small fish. There is no water course on the properties, and the properties are almost 100% urbanized (ie., concrete at grade, pavement, residential housing structures). Therefore, the habitat does not exist to support the *Eastern Ribbon Snake*.

The *Eastern Milk Snake*, despite being listed in the NHIC database, is no longer listed in O. Reg. 230/08, revised Aug/18 (SARO website accessed May 12, 2020). It is classified as NAR - no longer at risk. Its habitat includes prairies, meadows, pastures, hayfields, rocky outcrops, rocky hillsides and forests. This habitat does not exist on the properties.

Therefore, after conducting a site visit and consulting the on-line NHIC database it can be concluded that the 4 species at risk identified in the NHIC database are not present on 16 and 18 Mill Street, Georgetown, and that the habitat does not exist on the properties to support them if they traverse the properties or exist regionally.

Can the MOECP confirm please that there are no current NHIC records of the *Redside Dace*, the *Rusty-patched Bumble Bee*, the *Eastern Ribbon Snake*, the *Eastern Milk Snake*, or any other species at risk, on 16 or 18 Mill Street, Georgetown. In light of the fact that both the Region and CVC have waived the requirement for an IEA, are there other requirements under the Endangered Species Act that the proponent should address regarding species at risk not on the property but possibly in the area, such as the nearby Silver Creek riparian zone.

Thank you,
Dave McLaughlin.


--

Dave McLaughlin
Cotyledon Environmental Consulting
BB: 289.233.3762
www.cotyledonenvironmental.com

Email 2: MECP Species at Risk Office auto-response to Cotyledon.

Mail

Automatic reply: Property Development Inquiry

 Species at Risk (MECP) <SAROntario@ontario.ca>
5/13/2020 4:03 PM

To: Dave McLaughlin

Thank you for your inquiry to the Permissions and Compliance team, Species at Risk Branch, Ministry of the Environment, Conservations and Parks.

What's New?

- The Ministry of the Environment, Conservations and Parks (MECP) has responsibility for the administration of the Ontario Endangered Species Act (ESA). In MECP, work associated with ESA authorizations has been centralized from Ministry of Natural Resources and Forestry district offices into one Permissions and Compliance team within the new Species at Risk Branch in MECP.

What Next?

- Your email is being reviewed by branch staff to determine the nature of your inquiry or submission. Your inquiry or submission will then be actioned to someone from our team for follow up as required.
- We strive to follow up with a response to your inquiry within 15 business days to confirm that your submission has been actioned out and to provide contact information.

Do you think you may need an ESA permit or authorization?

- Please visit <https://www.ontario.ca/page/species-risk> to learn more about protecting and recovering species at risk, then navigate to the Resources and Permits section, including [Register or Get a Permit](#) for more information about permits and authorizations under the ESA.
- You only need an authorization under the ESA (e.g. a permit or other type of authorization) if your work is going to contravene the ESA (e.g. if the activity you are proposing is going to kill, harm or harass a species at risk or damage or destroy their habitat). If you are able to undertake your work in a manner that does not contravene the ESA, that is what we call "avoidance" of impacts to species at risk or their habitat and it is the ideal scenario for clients and the species - the species aren't adversely impacted, and you don't need an authorization.

Do you want to know if any species at risk are at, or near, your project site? Do you need help determining if you need an ESA permit or authorization?

- We have developed a guide to help clients work through the preliminary screening process, including providing advice to clients on how they can gather information you have requested from publicly available information sources. The guide provides advice on how you can determine if any species at risk are likely to exist at your site. If you are seeking information regarding species at risk likely to occur at or near your site, please send an email to sarontario@ontario.ca and include "request for preliminary screening guide" in the subject line. To provide the most efficient service, it is recommended clients read this guide and explore applicable information sources prior to contacting sarontario@ontario.ca to begin discussions with the Permissions and Compliance team about your proposed project.

Do you want to report a suspected violation of the ESA?

- Please call the MECP Tips/Pollution Hotline at 1-866-663-8477 and provide the details requested. Someone may follow up with you directly to request additional information. We may not be able to follow up with you to provide you an update on the status of your tip as the status of any ongoing inspections or investigations is confidential until resolved.

We also receive a high volume of inquiries related to Butternut (an endangered tree) to this email address. The following information can assist you if you have some of the more common questions regarding the ESA and impacts to Butternut.

Do you think you may need an ESA permit or authorization to cut down a Butternut tree?

- If a Butternut tree has been identified, a Butternut Health Assessment will need to be completed to assess the health of the tree in accordance with the document titled [Butternut Assessment Guidelines: Assessment of Butternut Tree Health for the Purposes of the Endangered Species Act, 2007](#). This will determine if the tree is Category 1, 2 or 3.
- Please note that Section 4.2 (Timing of Assessment) on page 10 of the Butternut Assessment Guidelines states that "A complete and accurate assessment of a Butternut tree can only be conducted during the leaf-on season." It also notes that "For the purposes of the ESA, an assessment will be considered to have been conducted during the leaf-on season if it was conducted between the dates of May 15 and August 31." For this reason, [a Butternut Health Assessment should not be conducted until May 15 in order to get an accurate assessment of the live crown.](#)
- Once a Butternut Health Assessment has been completed and submitted to the Ministry for at least 30 days, ESA requirements can be identified as per below:
- If a BHA identifies a tree as a hybrid, no authorization under the ESA is required to remove the tree, as it is not a pure Butternut and not protected under the ESA.
- If a BHA identifies a tree as a Category 1, no authorization under the ESA is required to remove the tree, as it is affected by Butternut canker (a fungal disease) to such an advanced degree that retaining the tree would not support the protection or recovery of Butternuts in the area.
- If a BHA identifies a tree as a Category 2, Registration under [section 23.7 of the Ontario Regulation 242/08](#) is likely feasible so long as all requirements of the Regulation are met.
- If a BHA identifies a tree as a Category 3, then a [17\(2\)\(c\) Permit](#) is likely required.

Are you submitting a Butternut health assessment?

- Please submit your Butternut Health Assessment Forms to at sarontario@ontario.ca. In the subject line, clearly indicate that the email contains a BHA and the municipality within which the BHA was conducted. Once received, the submission will be triaged and actioned.

Did you recently see a species at risk?

- Please visit <https://www.ontario.ca/page/report-rare-species-animals-and-plants> for information on how to report a species at risk sighting.


Would you like to learn more about species at risk and the ESA and its related policies?

- Please visit <https://www.ontario.ca/page/species-risk>.
- Policies under the ESA, ministry-endorsed survey protocols and a number of best-management practices related to how you can avoid or minimize impacts to species at risk can be found online at <https://www.ontario.ca/page/species-risk-guides-and-resources>.
- General inquiries related to the ESA or species at risk can be directed to esa-sarinquiries@ontario.ca

Email 3: Cotyledon follow-up to (generic) MECP Species at Risk Office.

Mail

Request for Preliminary Screening Guide

 Dave McLaughlin <mclaughlin.environmental@gmail.com>
5/13/2020 7:58 PM

To: Species at Risk (MECP)

 Fix X NHIC Grids.pdf
244.46 KB

Hello MOE/SARO,

This is a follow-up message to one I sent earlier today. I received the automated reply which suggested I place "Request for Preliminary Screening Guide" in the subject line, which I have done. The message also suggested I visit <https://www.ontario.ca/page/species-risk> to determine if a permit under the ESA is required. I believe a permit is not required because the work can be conducted in a manner that does not contravene the ESA, in that endangered species and their habitat won't be adversely impacted, therefore potential impacts are avoided, because:

- There are no species at risk on the property (I have asked MOECP to confirm that current NHIC species at risk records are not related to the property - see message below);
- There is no species at risk habitat on the property;
- There are no natural heritage features on the property;
- The proposed development will have no off-property impacts, so species at risk and/or their habitat or natural heritage features that may exist locally will not be affected;
- The municipal planning authorities and Credit Valley Conservation have both agreed that an Environmental Impact Assessment is not required.

Following is the text of my earlier message, sent at 4:03 pm today (May 13, 2020).

I have been retained by AGK Multi-Res GP Ltd. to assist with their re-development of two urban properties in Georgetown. The property addresses are 16 and 18 Mill Street, Town of Halton Hills (Georgetown). The two properties are adjacent and will be re-developed into one 8-story structure of residential condominiums.

In a pre-consultation meeting with the Town of Halton Hills and Credit Valley Conservation, which included a site visit, the planning authorities waived the requirement for an Environmental Impact Assessment as there are no natural heritage features on the properties, and they determined the proposed development will not impact nearby regional natural heritage features. In their correspondence with the proponent the Town planners also stated "Regional Staff note that the subject property is in proximity to records of an Endangered Species in the area, therefore Regional staff require that consultation with the Ministry of Environment, Conservation and Parks (MECP) be undertaken to determine if the regulated habitat of this species is on the property or adjacent lands or if there are any requirements under the Endangered Species Act including the requirement for an EIA. We will require this documentation to be submitted as part of the application process."

In the preliminary environmental background work on the property I consulted the Natural Heritage Information Center (NHIC) database for information on species at risk and other natural heritage features. The attached figure illustrates the four NHIC grids incorporating and adjacent to the properties. 16 and 18 Mill St. are in the extreme NE corner of NHIC grid ID 17NJ8633. For this grid the NHIC lists two species at risk - the *Redside Dace* and the *Rusty-patched Bumble Bee*. In addition, regulatory authorities, specifically conservation authorities, expect the proponent to determine not only if species at risk exist on the property, but whether the property has the potential to support species at risk should they travel through or forage on the property. Therefore, the adjacent 3 NHIC grids were also explored. Because the property is so close to the NE corner of grid 17NJ8633, the appropriate adjacent grids to consider are 17NJ8634 (adjacent to the north), 17NJ8734 (adjacent to the NE), and 17NJ8733 (adjacent to the east). When the four NHIC grids are considered, the species at risk list includes the *Redside Dace*, the *Rusty-patch Bumble Bee*, the *Eastern Ribbon Snake*, and the *Eastern Milk Snake*.

Clearly, the *Redside Dace* cannot exist on the properties, as it is a minnow and requires a cold water stream. There are no water courses on the property. The NHIC records obviously refer to Silver Creek, which is the stream east of the properties.

The *Rusty-patch Bumble Bee*, like most bee species, requires an abundance of flowering plants to feed on. Although it can exist in well landscaped urban areas it prefers mixed farmland, Savannah, open woods and sand dunes. These habitats do not exist on the properties. In addition, this bee species is, regrettably, extremely rare. The only sightings in Canada since 2002 have been at The Pinery Provincial Park on Lake Huron. The lack of recent sightings in Canada notwithstanding, there is no suitable habitat on the properties to support this or other bee species.

The *Eastern Ribbon Snake* is usually found close to water, as its main food source is frogs and small fish. There is no water course on the properties, and the properties are almost 100% urbanized (i.e., concrete at grade, pavement, residential housing structures). Therefore, the habitat does not exist to support the *Eastern Ribbon Snake*.

The *Eastern Milk Snake*, despite being listed in the NHIC database, is no longer listed in O. Reg. 230/08, revised Aug/18 (SARO website accessed May 12, 2020). It is classified as NAR - no longer at risk. Its habitat includes prairies, meadows, pastures, hayfields, rocky outcrops, rocky hillsides and forests. This habitat does not exist on the properties.

Therefore, after conducting a site visit and consulting the on-line NHIC database it can be concluded that the 4 species at risk identified in the NHIC database are not present on 16 and 18 Mill Street, Georgetown, and that the habitat does not exist on the properties to support them if they traverse the properties or exist regionally.

Will the MOECP please confirm that:

- there are no current NHIC records of the *Redside Dace*, the *Rusty-patched Bumble Bee*, the *Eastern Ribbon Snake*, the *Eastern Milk Snake*, or any other species at risk, on 16 or 18 Mill Street, Georgetown;
- an ESA permit is not required because potential impacts can be avoided, as explained above.

Thank you,
Dave McLaughlin.

--

Dave McLaughlin
Cotyledon Environmental Consulting
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www.cotyledonenvironmental.com

Cotyledon

Environmental Consulting

Email 4: Cotyledon to Paul Heeneey, Manager, Permissions and Compliance, Species at Risk Branch, MECP.

Mail

Fwd: Request for Preliminary Screening Guide

 Dave McLaughlin <mclaughlin.environmental@gmail.com>
6/18/2020 3:41 PM

To: paul.heeneey@ontario.ca

 Fix X NHIC Grids.pdf
244.46 KB


Hello Mr. Heeneey. The forwarded message was sent to the SAR email May 13, and I haven't heard back, other than the automated reply saying a reply may take 15 days. I'm certain my client doesn't need a SAR permit, as the SAR is not on the property, nor is there SAR habitat on the property, and the municipality and the CA has already accepted that an EIS isn't needed because there will be no off property impacts. Regardless, the municipality requires confirmation from the MOECP, hence my email request below. Perhaps you can expedite a response from your office, or call me (289.233.3762) if there is an alternative step for me to take.

Thank you for your attention to this matter.
Dave McLaughlin.

Email 5: Paul Heeneey, MECP to Cotyledon.

Mail

Automatic reply: Request for Preliminary Screening Guide

 Heeneey, Paul (MECP) <Paul.Heeneey@ontario.ca>
6/18/2020 3:42 PM

To: Dave McLaughlin

For the week of June 15, I will be in all day meetings Monday, Wednesday and Friday. I will not be checking emails regularly during this time. If you need immediate assistance, you can contact the following:

Monday - Nikki Boucher, nikki.boucher@ontario.ca

Wednesday - Kristina Hubert, kristina.hubert@ontario.ca

Friday - Todd Copeland, todd.copeland@ontario.ca

Thank you and have a great day.

Email 6: Cotyledon to Paul Heeneey, MECP.

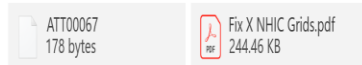
Mail

Fwd: Request for Preliminary Screening Guide

 mclaughlin.environmental@gmail.com <mclaughlin.environmental@gmail.com>
6/25/2020 10:51 AM

To: paul.heeneey@ontario.ca

[Save all attachments](#)



Hi Paul, I've not heard back from you or the SAR office regarding my request for information (repeated below). My client is eager to move forward with his proposal but we need confirmation from MOECP regarding SAR on his property. I realize these are challenging times for all of us, but I would appreciate if you or a representative from the SAR office can call me [289.233.3762](tel:289.233.3762). Thank you.

Sent from my iPhone

Begin forwarded message:

From: Dave McLaughlin <mclaughlin.environmental@gmail.com>
Date: June 18, 2020 at 3:41:43 PM EDT
To: paul.heeneey@ontario.ca
Subject: Fwd: Request for Preliminary Screening Guide

Hello Mr. Heeneey. The forwarded message was sent to the SAR email May 13, and I haven't heard back, other than the automated reply saying a reply may take 15 days. I'm certain my client doesn't need a SAR permit, as the SAR is not on the property, nor is there SAR habitat on the property, and the municipality and the CA has already accepted that an EIS isn't needed because there will be no off property impacts. Regardless, the municipality requires confirmation from the MOECP, hence my email request below. Perhaps you can expedite a response from your office, or call me [289.233.3762](tel:289.233.3762) if there is an alternative step for me to take.

Thank you for your attention to this matter.
Dave McLaughlin.

Email 7: Cotyledon to Paul Heeneey, MECP

Mail

Follow up to SAR inquiry

 Dave McLaughlin <mclaughlin.environmental@gmail.com>
7/23/2020 4:11 PM

To: paul.heeneey@ontario.ca

Hello Mr. Heeneey,

This is a follow up message to you personally and your SAR office. I contacted your office on May 13 and you personally June 13 and June 25. I have not received the information I requested, in fact, I have only received automated email responses from both you and the SAR generic email. This lack of response is totally unacceptable. I fully appreciate the challenging times we are all experiencing, however that is no excuse for you and your office's failure to follow up on routine information requests. I know gov't policies and procedures can be challenging under normal conditions, let alone large-scale inter-ministry reorganizations and the current unprecedented circumstances. My previous career was 36 years with the Environment Ministry, culminating in my position as Assistant Director, Environmental Monitoring and Reporting Branch. Believe me, I empathize. However, your failure to respond is unconscionable.

To recap, I sent two emails to the generic SAR email (SARontario@ontario.ca) on May 13 and received an auto-response saying it may take up to 15 days to receive the information I requested. Having received nothing after a month, I sent you an email June 18. I received an auto-response saying you were in meetings and were checking email regularly. Having received no further response I sent you another email June 25, attaching all the previous correspondence. I received no response. On June 26 I left you a voicemail message, once again explaining my request and the lack of response. I did not receive a reply phone call.

The irony Mr. Heeneey is my request is about as simple as it can get: are these (4) species at risk on my client's property? Yes or no. To add insult to injury, I know for sure the species aren't on the property (the property is 100% urbanized, there is no suitable habitat), I just need the MOECP to concur. The municipality requires MOECP correspondence before they will issue a work permit. Your lack of response has held up my client's project for almost 3 months.

Mr. Heeny, please respond to my request at your earliest convenience. If I have mis-directed my request, please direct me appropriately, and see to it that my request is expedited.

It is now end of workday July 23. If I have not heard from you by July 30 my next correspondence will be to the ADM Land and Water Division Chloe Stuart, with cc to Director SAR Branch Susan Ecclestone. Please help me avoid these next steps.

Respectfully,
Dave McLaughlin
Cotyledon Environmental Consulting
BB: 289.233.3762
www.cotyledonenvironmental.com

Email 8: Paul Heeneey, MECP to Cotyledon

Mail

RE: Follow up to SAR inquiry



Heeneey, Paul (MECP) <Paul.Heeneey@ontario.ca>
7/23/2020 9:12 PM

To: Dave McLaughlin

Good evening, David.

Thanks for your email. I do apologize for the time it has taken to respond, and won't insult you by presenting excuses.

You are correct, your question is a simple one. The answer is that it is not this ministry's responsibility to tell proponents what is or isn't on their property. That is and always has been the landowner's responsibility.

The Endangered Species Act, 2007 prohibits activities that may adversely impact endangered or threatened species (section 9) and/or their habitat (section 10). Only in the event that someone carrying out such activities seeks an authorization from this ministry to impact species, does this ministry issue a legal instrument.

If in the professional and duly informed opinion of the proponent and/or their consultants species at risk and/or their habitat either do not occur on or near the site of the activities, or if they do, any adverse impacts that are prohibited by sections 9 or 10 can be avoided, then the proponent may proceed with the activity.

As for the municipal requirement that MECP provide correspondence of some kind before it issues a work permit, that would only happen in the event that a formal authorization is issued from the Minister.

To assist with the situation, I would be happy to participate in a call with you, your client and the municipality. If this is something that you think might be helpful, I would be happy to discuss.

In the interest of progress, I have blocked off 11:30 tomorrow morning to phone you directly at the number in your signature block. Let me know if that works for your schedule.

Thanks, David. I look forward to hearing from you.

Paul

Paul Heeneey
Manager, Permissions and Compliance
Species at Risk Branch
Land and Water Division
Ministry of the Environment, Conservation and Parks
40 St. Clair Ave. W., 14th Floor
Toronto ON M4V 1M2
paul.heeneey@ontario.ca
T: (613) 202-1889

Email 9: Cotyledon to Paul Heneey, MECP

Mail

Re: Follow up to SAR inquiry



Dave McLaughlin <mclaughlin.environmental@gmail.com>

7/23/2020 10:14 PM

To: Heeneey, Paul (MECP)

Thank you for your reply Paul. Unfortunately I am busy on Friday until 3:00 in the afternoon. I would be eager to discuss my request with you at that time. I hope this works for you. To save you searching your email, and to refresh the issue for you, below is the text of the email I sent to the SAR office [May 13](#).

On May 13 I wrote:

This is a follow-up message to one I sent earlier today. I received the automated reply which suggested I place "Request for Preliminary Screening Guide" in the subject line, which I have done. The message also suggested I visit <https://www.ontario.ca/page/species-risk> to determine if a permit under the ESA is required. I believe a permit is not required because the work can be conducted in a manner that does not contravene the ESA, in that endangered species and their habitat won't be adversely impacted, therefore potential impacts are avoided, because:

- There are no species at risk on the property (I have asked MOECP to confirm that current NHIC species at risk records are not related to the property - see message below);
- There is no species at risk habitat on the property;
- There are no natural heritage features on the property;
- The proposed development will have no off-property impacts, so species at risk and/or their habitat or natural heritage features that may exist locally will not be affected;
- The municipal planning authorities and Credit Valley Conservation have both agreed that an Environmental Impact Assessment is not required.

Following is the text of my earlier message, sent at 4:03 pm today (May 13, 2020).

I have been retained by AGK Multi-Res GP Ltd. to assist with their re-development of two urban properties in Georgetown. The property addresses are 16 and 18 Mill Street, Town of Halton Hills (Georgetown). The two properties are adjacent and will be re-developed into one 8-story structure of residential condominiums.

In a pre-consultation meeting with the Town of Halton Hills and Credit Valley Conservation, which included a site visit, the planning authorities waived the requirement for an Environmental Impact Assessment as there are no natural heritage features on the properties, and they determined the proposed development will not impact nearby regional natural heritage features. In their correspondence with the proponent the Town planners also stated "Regional Staff note that the subject property is in proximity to records of an Endangered Species in the area, therefore Regional staff require that consultation with the Ministry of Environment, Conservation and Parks (MECP) be undertaken to determine if the regulated habitat of this species is on the property or adjacent lands or if there are any requirements under the Endangered Species Act including the requirement for an EIA. We will require this documentation to be submitted as part of the application process."

In the preliminary environmental background work on the property I consulted the Natural Heritage Information Center (NHIC) database for information on species at risk and other natural heritage features. The attached figure illustrates the four NHIC grids incorporating and adjacent to the properties. 16 and 18 Mill St. are in the extreme NE corner of NHIC grid ID 17N18633. For this grid the NHIC lists two species at risk - the *Redside Dace* and the *Rusty-patched Bumble Bee*. In addition, regulatory authorities, specifically conservation authorities, expect the proponent to determine not only if species at risk exist on the property, but whether the property has the potential to support species at risk should they travel through or forage on the property. Therefore, the adjacent 3 NHIC grids were also explored. Because the property is so close to the NE corner of grid 17N18633, the appropriate adjacent grids to consider are 17N18634 (adjacent to the north), 17N18734 (adjacent to the NE), and 17N18733 (adjacent to the east). When the four NHIC grids are considered, the species at risk list includes the *Redside Dace*, the *Rusty-patch Bumble Bee*, the *Eastern Ribbon Snake*, and the *Eastern Milk Snake*.

Clearly, the *Redside Dace* cannot exist on the properties, as it is a minnow and requires a cold water stream. There are no water courses on the property. The NHIC records obviously refer to Silver Creek, which is the stream east of the properties.

The *Rusty-patch Bumble Bee*, like most bee species, requires an abundance of flowering plants to feed on. Although it can exist in well landscaped urban areas it prefers mixed farmland, Savannah, open woods and sand dunes. These habitats do not exist on the properties. In addition, this bee species is, regrettably, extremely rare. The only sightings in Canada since 2002 have been at The Pinery Provincial Park on Lake Huron. The lack of recent sightings in Canada not-with-standing, there is no suitable habitat on the properties to support this or other bee species.

The *Eastern Ribbon Snake* is usually found close to water, as its main food source is frogs and small fish. There is no water course on the properties, and the properties are almost 100% urbanized (ie., concrete at grade, pavement, residential housing structures). Therefore, the habitat does not exist to support the *Eastern Ribbon Snake*.

The *Eastern Milk Snake*, despite being listed in the NHIC database, is no longer listed in O. Reg. 230/08, revised Aug/18 (SARO website accessed May 12, 2020). It is classified as NAR - no longer at risk. Its habitat includes prairies, meadows, pastures, hayfields, rocky outcrops, rocky hillsides and forests. This habitat does not exist on the properties.

Therefore, after conducting a site visit and consulting the on-line NHIC database it can be concluded that the 4 species at risk identified in the NHIC database are not present on 16 and 18 Mill Street, Georgetown, and that the habitat does not exist on the properties to support them if they traverse the properties or exist regionally.

Will the MOECP please confirm that:

- there are no current NHIC records of the *Redside Dace*, the *Rusty-patched Bumble Bee*, the *Eastern Ribbon Snake*, the *Eastern Milk Snake*, or any other species at risk, on 16 or 18 Mill Street, Georgetown;
- an ESA permit is not required because potential impacts can be avoided, as explained above.

End quote.

I confess Paul I am relatively new to the consulting business, and perhaps I am enquiring of the wrong gov't office. If so, I would appreciate your direction. I look forward to our discussion tomorrow. If 3:00 pm doesn't work for you I am available any time the following Monday.

Thank you,
Dave McLaughlin.

Email 10: Paul Heeneey, MECP to Cotyledon

Mail

RE: Follow up to SAR inquiry



Heeneey, Paul (MECP) <Paul.Heeneey@ontario.ca>

7/23/2020 10:55 PM

To: Dave McLaughlin

Hi David

How does 4:30 work?

Paul

Paul Heeneey

Manager, Permissions and Compliance

Species at Risk Branch

Land and Water Division

Ministry of the Environment, Conservation and Parks

40 St. Clair Ave. W., 14th Floor

Toronto ON M4V 1M2

paul.heeneey@ontario.ca

T: (613) 202-1889

Email 11: Cotyledon to Paul Heeneey, MECP

Mail

Re: Follow up to SAR inquiry



mclaughlin.environmental@gmail.com <mclaughlin.environmental@gmail.com>

7/24/2020 9:16 AM

To: Heeneey, Paul (MECP)

4:30 is good Paul. Please call me at 289.233.3762. Thanks.

Sent from my iPhone

Cotyledon

Environmental Consulting

Email 12: Cotyledon to Paul Heneey, MECP

Email confirmation please  Inbox x



Dave McLaughlin <mclaughlin.environmental@gmail.com>

Mon, Aug 3, 10:02 PM (4 days ago)



to Paul ▾

Hi Paul,

Thank you for taking the time to talk with me last week. You will recall that the Town Planners were asking me to provide documentation from the MECP regarding the presence of species at risk on the property and the need for permits under the Endangered Species Act.

..."Regional staff note that the subject property is in proximity to records of endangered species in the area, therefore Regional staff require that consultation with the Ministry of Environment, Conservation and Parks (MECP) be undertaken to determine if the regulated habitat of this species is on the property or adjacent lanes or if there are any requirements under the Endangered Species Act, including the requirement for an EIA. We will require this documentation to be submitted as part of the application process."

I know that the MECP does not provide presence/absence documentation, and I've made that clear in the report. To satisfy the Regional planners request, can I ask you to send me an email with text that says something along the lines of ...

"... further to our series of emails and our phone conversation of July 24, 2020, the MECP does not provide documentation regarding the presence of species at risk on a specific property. It is up to the proponent to determine if species at risk are present, or if habitat exists on the property to support species at risk. If the proponent can illustrate to the satisfaction of the municipal planning authorities that species at risk are not present on the property, and that there will be no off-site impacts to species at risk that may exist locally, then there would be no need for any permits under the Endangered Species Act." ...

If you have better or more complete language, please edit as you see appropriate.

I look forward to receiving your email.

Thanks, Dave

--

Dave McLaughlin

Cotyledon Environmental Consulting

BB: 289.233.3762

www.cotyledonenvironmental.com

Email 13: Paul Heeneey, MECP to Cotyledon

Heeneey, Paul (MECP) Aug 5, 2020, 9:31 AM (2 days ago) ☆ ↶ ⋮

to me

Hi Dave,

I hope you enjoyed the long weekend. Thanks for the discussion last week, that was helpful.

We have encountered this situation a number of times where municipalities and other local agencies are seeking some form of sign off from MECP to confirm whether or not a proponent has any ESA obligations. As we talked about, this is a process where the responsibility is with a proponent carrying out any activity to undertake the proper assessment and make sound decisions about the activity in the context of the ESA. We do not review every activity carried out by proponents.

By way of context, the ESA has two key prohibitions – no person can carry out an activity that will kill, harm or harass a species at risk, and no person can carry out an activity that will damage or destroy the habitat of a species at risk. Generally, an activity can be carried out without contravening these prohibitions if 1) there are no species at risk or habitat in the area, or 2) there are species at risk and/or their habitat in the area but the activity can be carried out to avoid adversely impacting both (i.e. without killing, harming or harassing and damaging or destroying). Not every activity that occurs near a member of a protected species will kill, harm or harass that member or damage or destroy its habitat.

The first step is to carry out a preliminary screening, as it's called, which is mainly intended to confirm the presence/absence of species at risk and their habitat (we have been developing a guide, which I have attached here for you). Often, informed decisions can be made by a proponent (or a consultant or other professional/expert acting on behalf of the proponent) on the basis of the preliminary screening that neither of the prohibitions will be contravened. In this case, they are free to proceed. It is wise to document the preliminary assessment, including the evidence, the conclusions about presence/absence and the rationale why the prohibitions won't be contravened.

With respect to this work, it is the proponent's responsibility to:

- carry out a preliminary screening for their activities,
- obtain best available information from all applicable information sources,
- conduct any necessary field studies or inventories to identify and confirm the presence or absence of species at risk or their habitat (where a desktop exercise isn't enough),
- consider any potential impacts to species at risk that a proposed activity might cause, and
- comply with the ESA.

Proponents sometimes provide the results of their preliminary screening to MECP for review if they are not confident in their decision, and to obtain guidance about next steps where it seems that the activity may contravene one or both of the prohibitions. But it is important that the proponent complete this preliminary assessment first. Not everyone will contact us, if they are confident in their work and conclusions. Therefore, we have absolutely no way of providing some form of "clearance", as municipalities and other agencies often call it, for activities to proceed, nor is that the responsibility of MECP to do that. Nor should we do that if qualified, competent experts are carrying out the work. Municipalities and other agencies can and should rely on the work by these individuals in the same way that we do.

Of course, if on the basis of the preliminary assessment a proponent determines that they are likely to contravene one or both of the prohibitions, they should contact MECP to discuss the possibility of obtaining an authorization from the Minister, which would allow an activity to proceed in contravention of the prohibitions subject to certain conditions. In some cases, the proponent may have the option of sheltering under an exemption, subject to conditions of doing so.

I hope this information is helpful, Dave. As I mentioned on our call, I am happy to join you in a discussion with the municipality if that helps.

If you need anything further, or have any questions about the information here just let me know.

Paul

Paul Heeneey
Manager, Permissions and Compliance
Species at Risk Branch
Land and Water Division
Ministry of the Environment, Conservation and Parks
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