



December 2, 2022

Via Email

Attn: Honourable Steve Clark,
Minister of Municipal Affairs and Housing

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c/o minister.mah@ontario.ca

**RE: Summary of Requests to Facilitate Removal of Lands from Greenbelt
267 Sulphur Springs Road, Ancaster
ERO No. 019-6217**

On November 4th, 2022, the Ministry of Municipal Affairs and Housing (MMAH) initiated an invitation for public consultation on proposed amendments to the Greenbelt Plan, which propose to make several land additions and deletions from the Greenbelt boundary. This submission provides rationale and justification for the lands municipally known as 267 Sulphur Springs Road in the City of Hamilton (“site”) as a candidate for removal from the Greenbelt Plan and redesignation.

The site is designated as ‘Niagara Escarpment Plan Area’ in the Greenbelt Plan, ‘Escarpment Protection Area’, ‘Escarpment Natural Area’, and ‘Urban Area’ in the Niagara Escarpment Plan (NEP), and ‘Rural’ and ‘Open Space’ in the Rural Hamilton Official Plan. Further, the site is located immediately adjacent to the existing urban boundary (Appendix A) with municipal servicing available at the property line (Appendix B). The site is a viable candidate for urban growth and intensification, as is discussed throughout the balance of this Letter. Below, we outline recommended changes to the Greenbelt Plan, Niagara Escarpment Plan, and Hamilton Official Plans to accommodate the future development of the site and ensure alignment between the applicable provincial and municipal policy.

Lands Proposed for Redesignation and Planning Merit

The removal and redesignation of the subject lands for future development can be considered appropriate and in keeping with the growth objectives established by Provincial policies including the Growth Plan and Bills 108, 109 and 23. The site is currently occupied by a single-detached dwelling and accessory structure, and is surrounded by fully serviced residential development to the south and west.

Should this request be approved, it is the proponent’s intention to develop the site in accordance with the policies of the Low Density Residential – Neighbourhoods designation in the Urban Hamilton Official Plan (UHOP). This includes build out to a maximum net residential density of 60 units per hectare for the developable portion of the site, thus aiding the City in achieving the population target of 820,000 established in Schedule 3 of the Growth Plan. Further, the site is a strong candidate for residential

development as it is in close proximity to municipal services and facilities including: Elementary and Secondary Schools, Daycare, Grocery Stores, and access to Highway 403 and the Lincoln M. Alexander Parkway. Further, Dougan & Associates was retained to conduct an Ecological Constraint Assessment dated June 9, 2021, which is contained in Appendix G of this Letter. This Report concludes that “an application to modify the NEP and urban boundaries likely has defensible merits on natural heritage grounds.”

As noted above:

- The lands have direct access to full municipal servicing
- The lands are in close proximity to existing municipal infrastructure and services
- The lands will be developed in accordance with the Low Density Residential policies of the UHOP
- An Ecological Constraint Assessment confirms that the modification of the NEP and urban boundaries can be supported on natural heritage grounds

Actions Required/Next Steps

The proposed policy changes will ensure an appropriate planning policy framework is established to implement this request.

Step 1 – Removal of the site from the Greenbelt Plan

The site is requested to be removed from the Greenbelt boundary as part of proposed modifications to the Greenbelt Plan.

Step 2 – Removal of the site from the Niagara Escarpment Plan

As illustrated in Appendix C, the site in its entirety be removed from the Niagara Escarpment Plan boundary.

Step 3 – Removal of the site from the Rural Hamilton Official Plan (RHOP) and inclusion in the Urban Hamilton Official Plan (UHOP)

As illustrated in Appendices D and E, the site is currently located outside of Hamilton’s urban boundary. As such, the boundary of the RHOP and UHOP is required to be altered to *exclude* the site from the RHOP and *include* the site in the UHOP.

Step 4 – Redesignation of the site from ‘Rural’ in the RHOP to ‘Neighbourhoods’ in the UHOP

As illustrated in Appendix F, the site will require an amendment to the Official Plan designation from ‘Rural’ to ‘Neighbourhoods’ to accommodate residential development. This will ensure the Official Plan policy aligns with the removal of the site from the Greenbelt and inclusion in the urban area – should the Province approve this request.

Recommended Map Changes

Accordingly, UrbanSolutions recommends the following changes to the Greenbelt Plan, Niagara Escarpment Plan, Urban Hamilton Official Plan, and Rural Hamilton Official Plan:

1. Schedule 1 – Greenbelt Area of the Greenbelt Plan is modified to redesignate the site from ‘Greenbelt Area’ to ‘Settlement Area Outside the Greenbelt’
2. Map 2 – Niagara Escarpment Plan of the Niagara Escarpment Plan is modified to redesignate the portion of the site designated ‘Escarpment Protection Area’ and ‘Escarpment Natural Area’ to ‘Urban Area’.
3. Schedule D – Rural Land Use Designations of the RHOP is modified by removing the site from the Rural Boundary.
4. Schedules A – C-2 and Schedules E – G are modified to include the site in the Urban Boundary and remove any natural heritage designations.
5. Schedule D – Rural Land Use Designations of the RHOP is modified by redesignating site from ‘Rural’ to ‘Neighbourhoods’.
6. Schedule E – Urban Structure of the UHOP is modified by redesignating the site as ‘Neighbourhoods’.
7. Schedule E-1 – Urban Land Use of the UHOP is modified by redesignating the site from ‘Rural’ to ‘Neighbourhoods’.

As proposed, the aforementioned changes will place the site into the most appropriate land use designation within the Hamilton Official Plan(s) to recognize the existing conditions on site and implement the growth and intensification objectives established by the Province.

Timeline Concerns

In the Environmental Registry of Ontario posting regarding the proposed Greenbelt Plan amendments, it is stated that lands removed from the Greenbelt are expected to commence construction no later than 2025. Further, it is noted that should construction not commence by 2025, they will be returned to the Greenbelt designation.

Our concern lies in the feasibility of the timeline to secure the required Planning Act approvals by 2025. Given the political regime now in place with Hamilton City Council, an Official Plan Amendment application for an Urban Boundary expansion and related policy changes will not be received favourably, making a 2025 deadline impossible to meet.

To achieve this timeframe, the Province must make these modifications to the Hamilton Official Plan. Doing so will limit the Planning Act approvals to a Zoning By-law Amendment application followed by a 12-18 month site plan application, making the 2025 timeframe achievable.

We look forward to working with you and your staff to discuss the outlined request in greater detail and coordinate the implementation of said request. Should you have any questions or require anything further, please do not hesitate to contact the undersigned.

Kind Regards,
UrbanSolutions



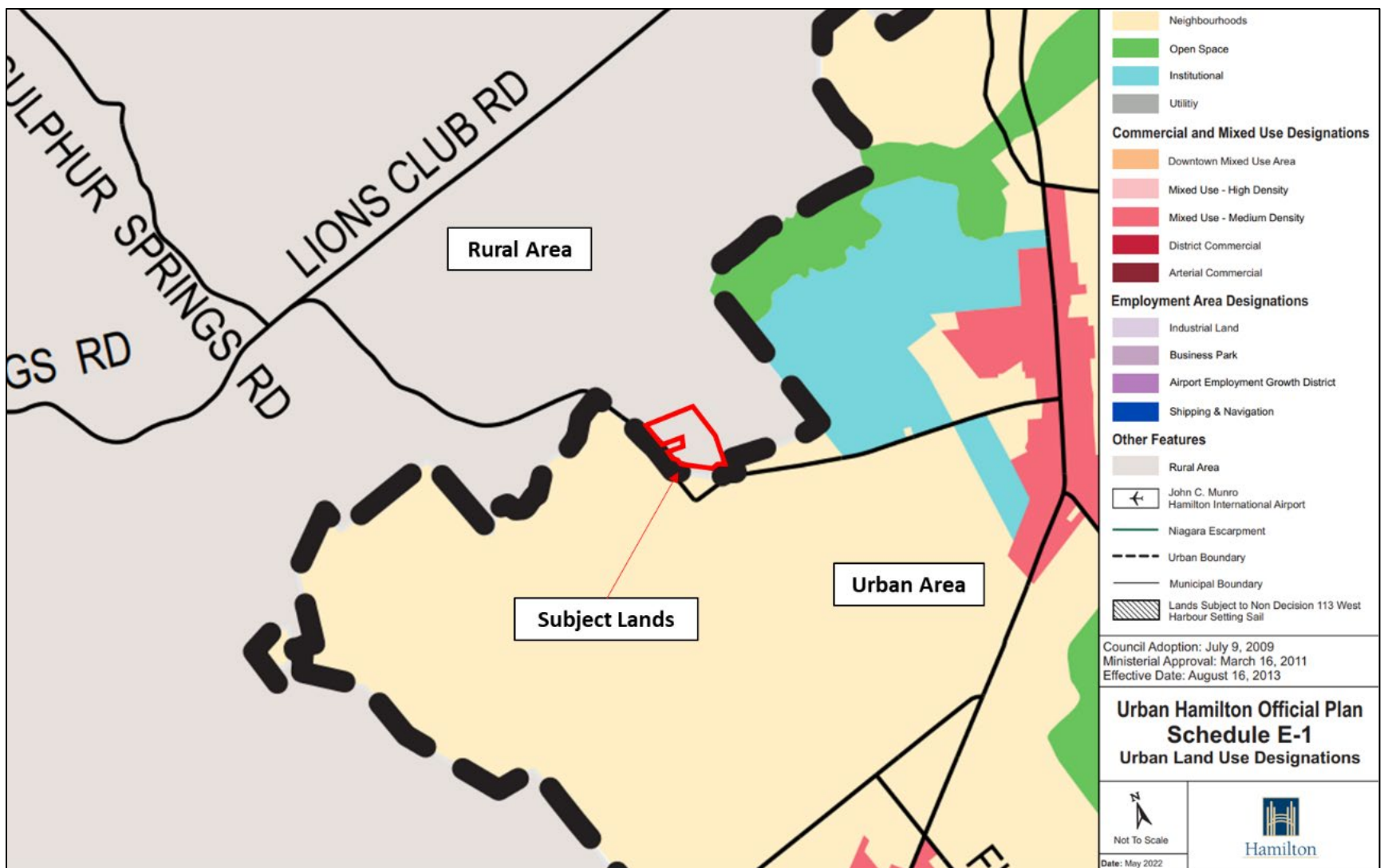
Matt Johnston, MCIP, RPP
Principal



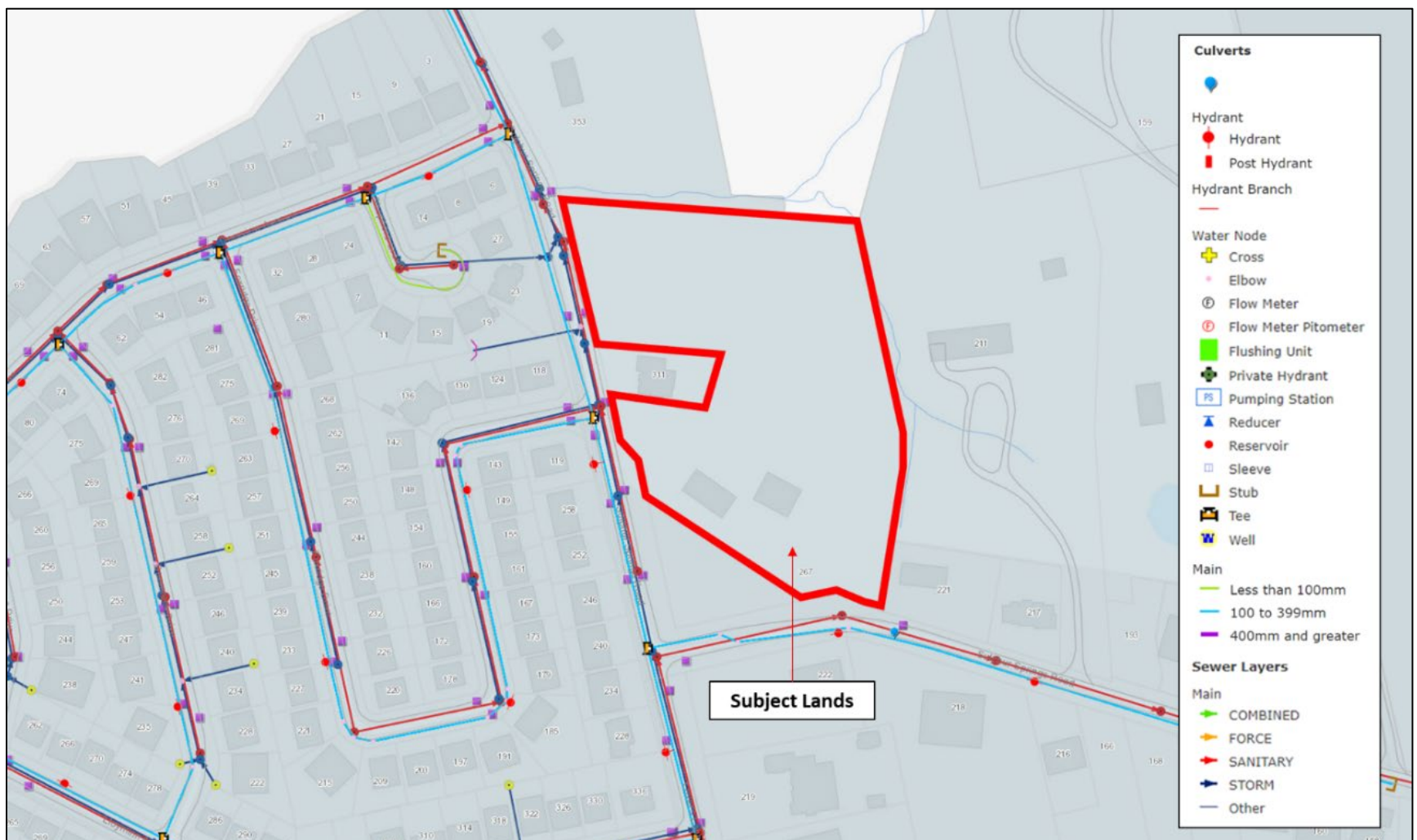
Matthew LeBlanc, M.PL, BA (Hons)
Planner

cc: Mr. Nick Carnicelli, Carriage Gate Homes

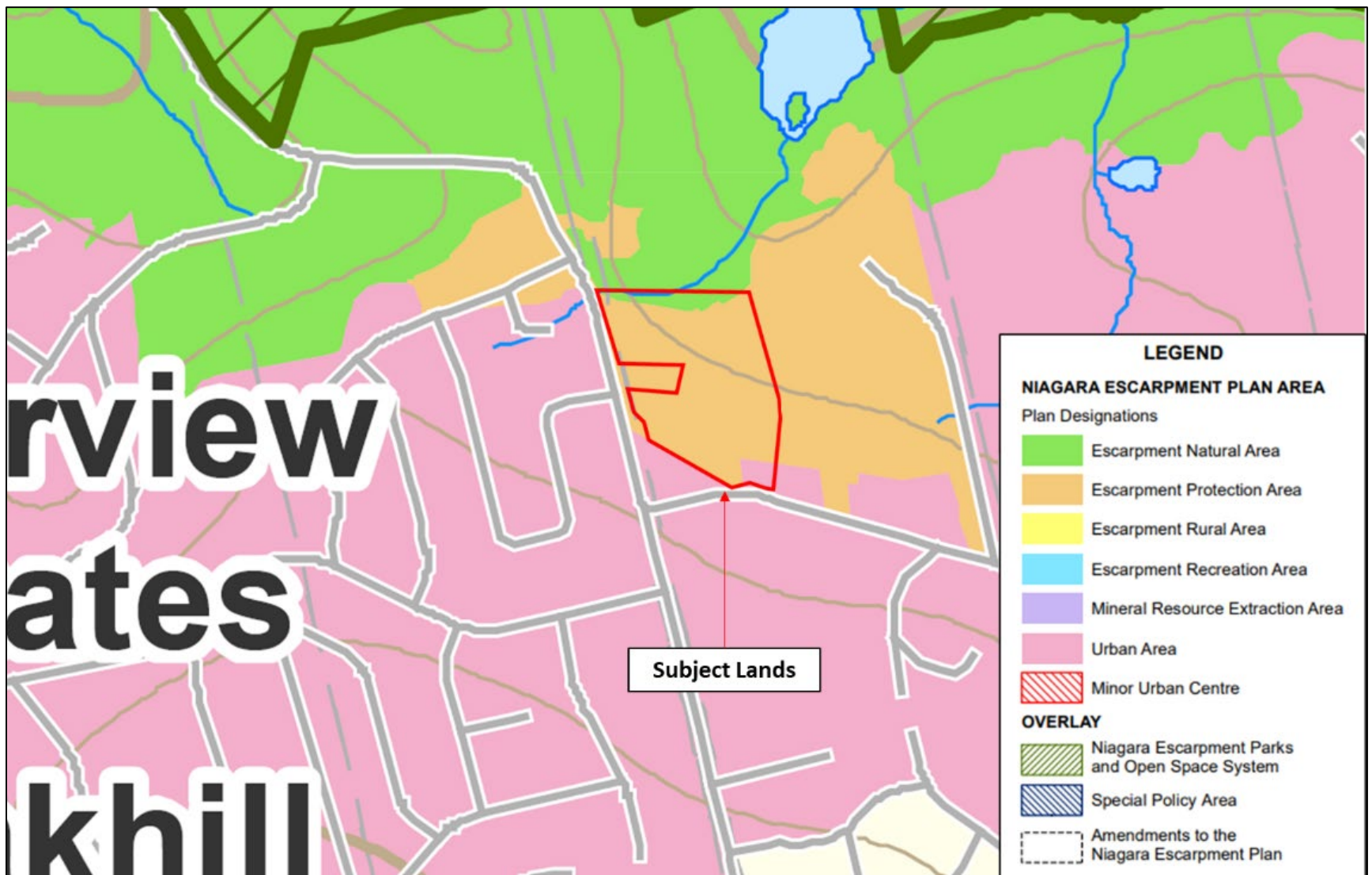
Appendix A – Subject Lands in Proximity to Hamilton’s Urban Boundary



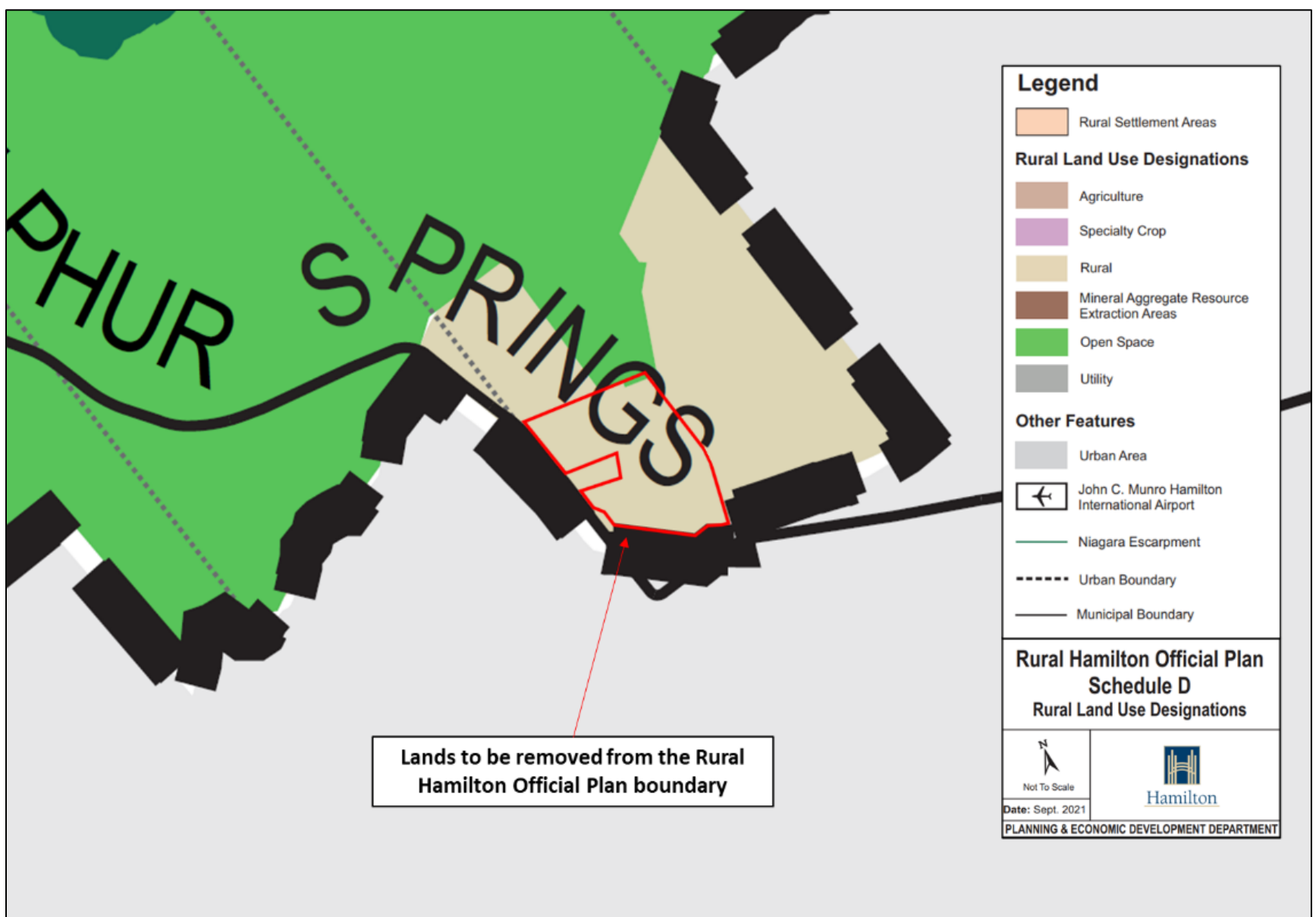
Appendix B – Water and Wastewater Servicing Map



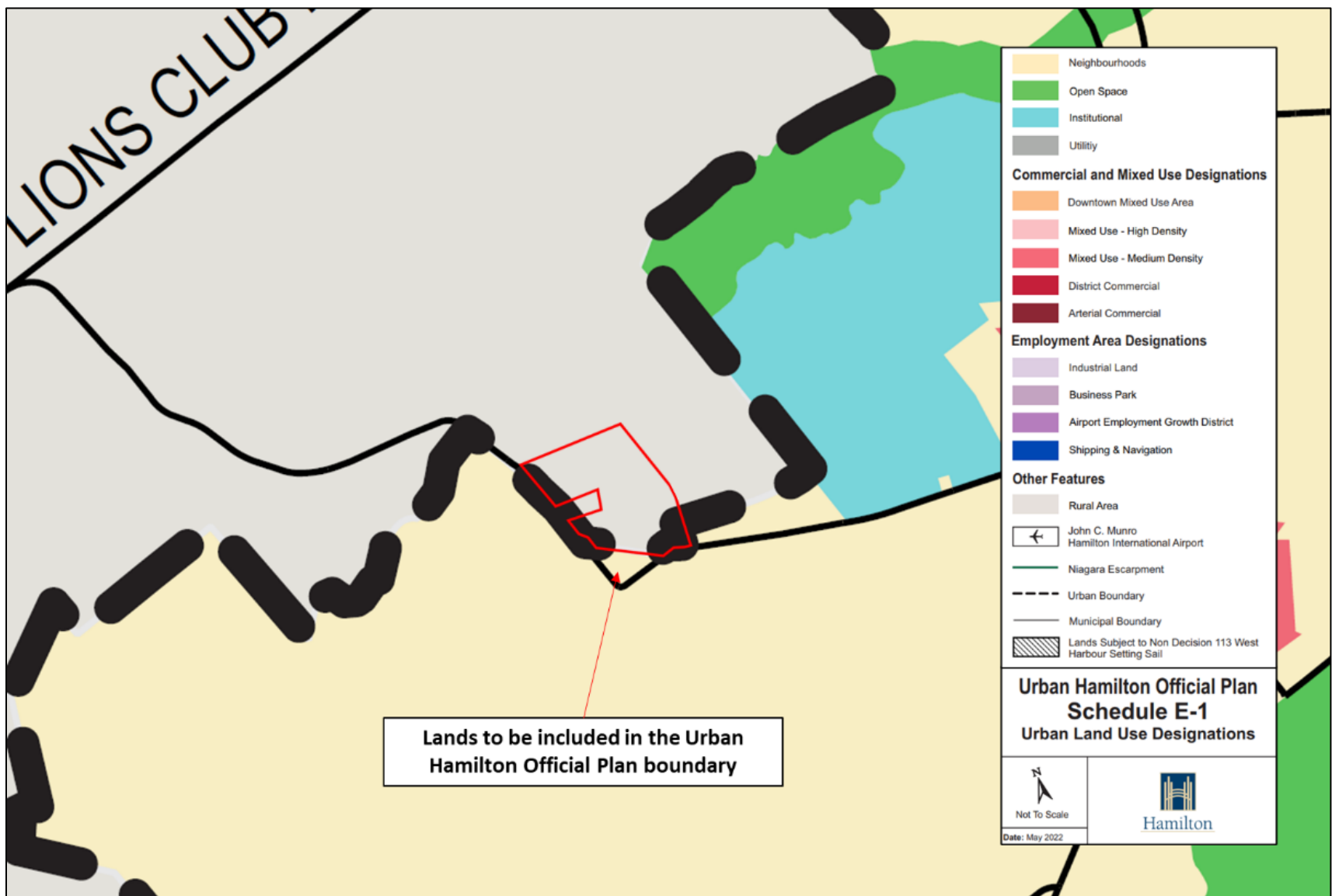
Appendix C – Amendment to the Niagara Escarpment Plan (NEP)



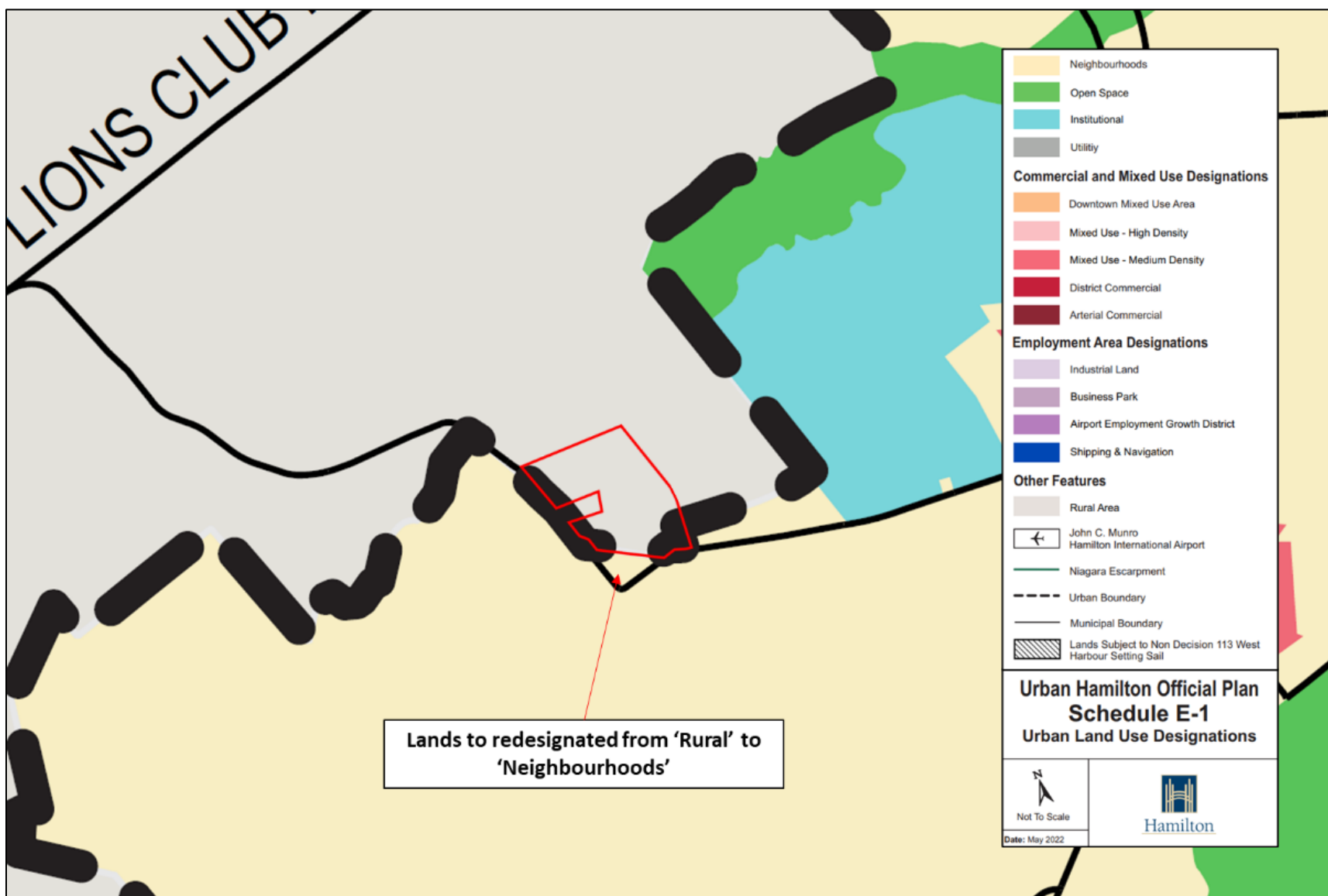
Appendix D – Amendment to the Rural Hamilton Official Plan Boundary



Appendix E – Amendment to the Urban Hamilton Official Plan Boundary



Appendix F – Redesignation in the Rural and Urban Official Plans



Appendix G – Dougan & Associates' Ecological Constraint Assessment

ECOLOGICAL CONSTRAINT ASSESSMENT

6/9/2021

Nick Carnicelli
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RE: Ecological Constraint Assessment for 267 Sulphur Springs Road, Ancaster, Hamilton, Ontario

PROPERTY LOCATION

Dougan & Associates (D&A) was retained by Carriage Gate Homes to complete a site visit and constraint assessment of natural heritage features on the subject properties located at 267 Sulphur Springs Road in Ancaster, City of Hamilton. The Hamilton Conservation Authority (HCA), City of Hamilton, and Niagara Escarpment Commission are all regulatory agencies for the property, and an Environmental Impact Study (EIS) may be required to support a future severance within the Niagara Escarpment Protection Area. A preliminary site visit was conducted on May 6th, 2021, to verify the present/absence of natural heritage features. This memo summarizes our background desktop review and the known implications for development.

BACKGROUND INFORMATION

The subject property is located at 267 Sulphur Springs Road in Ancaster, Ontario in the City of Hamilton. The property is approximately 7 acres in size and sits on the Kame moraines formation (Chapman & Putnam 2007). The surficial soils are composed of fine-textured glaciolacustrine deposits containing silt and clay, minor sand, and gravel (Ontario Geological Survey 2010).

Figure 1 shows the site location, overlaid policy areas in the vicinity, and features such as wetlands and woodlands as mapped in background data. The majority of the property is within the Rural Area of the City of Hamilton, though a small triangular portion at the intersection of Sulphur Springs and Lovers Lane is within the Urban Area. As such, both Rural and Urban Official Plan policies apply to the site. A number of natural heritage features that overlap onto the property are regulated by the HCA, the City and the Niagara Escarpment Commission. These include woodlands within and adjacent to the property, and two watercourse tributaries that flow along the north and east side of the site. The City of Hamilton Official plan shows that the entire property as within the Niagara Escarpment Plan Area, with the woodlands mapped as Significant Woodland and Core Areas within the Rural Hamilton Natural Heritage System. The open areas outside the woodlands are within the Niagara Escarpment Plan. These policies designations are discussed in more detail below.

Species at Risk (SAR) records available for the general vicinity through the Natural Heritage Information Centre (NHIC) are provided in Appendix A. A preliminary site investigation took place on May 6th, 2021 in order to assess potential habitat for species at risk. Several large Sugar Maple, Red Oak and snags were observed on the property which would provide suitable maternity colonies for Endangered bat species. Additionally, the deciduous forest (FOD) located north of the property would be designated as

suitable bat habitat as per the Ministry of the Environment, Conservation and Park protocol (MECP 2021). No Endangered Butternut trees were detected.

Based on the habitats within and adjacent to the study area, SAR bird habitat may be present. The surrounding deciduous forest may be suitable for Eastern Wood-pewee (*Contopus virens*) and Wood Thrush (*Hylocichla mustelina*). Also, Yellow-breasted Chat (*Icteria virens*) and Louisiana Waterthrush (*Parkesia motacilla*) records were indicated by the NHIC background review. The deciduous forest north of the study area may be suitable but these two species are very rare in the City of Hamilton. There is no suitable habitat for open country Threatened bird species such as Bobolink (*Dolichonyx oryzivorus*) and Eastern Meadowlark (*Sturnella magna*). The heritage buildings within the study area may provide suitable nesting locations for Barn Swallow (*Hirundo rustica*). However, no old nests or Barn Swallow activity were observed during the May 6th site visit. There is an NHIC record for Northern Bobwhite (*Colinus virginianus*) but this species is considered extirpated in Ontario and no suitable habitat exists.

In terms of SAR reptiles, the Eastern Milksnake (*Lampropeltis Triangulum*) may occur based on habitat present in the study area; it is not at risk in Ontario but Special Concern federally. No SAR turtle nesting or wintering habitat was identified on the property. There is a pond located >250m north of the study area that could sustain turtles, however no suitable nesting sites were observed on the property.

In terms of SAR insects, Monarch (*Danaus plexippus*) may occur within the study area wherever host plants (*Asclepias spp.*) are found. An NHIC record exists for Clamp-tipped Emerald (*Somatochlora tenebrosa*), a dragonfly which is not a species at risk but considered rare in Hamilton and is an S2S3 species in Ontario (NHIC 2021); potential habitat exists in the deciduous forest north of the study area. An NHIC record for American Burying Beetle (*Nicrophorus americanus*) exists, however, this species is considered extirpated in Ontario.

SITE VISIT

A site visit was conducted on May 6th, 2021, to confirm the presence of the natural heritage features identified in the background review. All woodlands and watercourses identified during the background review were observed as present. Figure 2 provides a more detailed view of features on the property and their relative constraints.

The woodland at the southern end of the property is currently mapped by the City of Hamilton as Significant Woodland, though it does not appear to meet the minimum two or more criteria for significance. These criteria include size (>2 ha) and minimum width (40m), presence of interior forest (100m from edge), proximity/connectivity to significant natural areas, proximity to a hydrologic feature (<30m), age (at least 10 trees >100 years old), and presence of rare species. The majority of the woodland is anthropogenic in origin (hedgerow and plantation), but the numerous large Sugar Maple and Black Walnut trees may be culturally significant and require protection under the Tree By-Law. The woodland status would need to be confirmed through an EIS with additional field investigations specifically to confirm presence/absence of significant species. The northern woodlands bordering the two watercourses are contiguous with woodlands located off-property (including a nearby City-designated Environmentally Significant Area) and would be significant based on their size, proximity to the watercourses, and interior habitat. The woodland and watercourse are shown on Figure 2 with the Vegetation Protection Zones specified in the City's Official Plan and the Niagara Escarpment Plan, as discussed below.

In terms of potential wildlife, the barn/garage structure adjacent the house has potential to be Barn Swallow habitat or Species at Risk bat habitat and would require further investigation at the time of a future application to confirm presence/absence of Species at Risk. Several of the mature deciduous trees within the woodland at the south end of the property have large cavities and would likely qualify as Species at Risk bat habitat. Further investigation of these trees and liaison with the Ministry of Environment, Conservation and Parks would be required if removal is proposed.

Lastly, it was noted that a valley slope extends across the northern portion of the property. The top of slope was estimated based on 1m topographic contours from Hamilton Conservation Authority and is shown on Figure 2 with the required minimum 6m setback. Depending on the permanence of flows and potential coldwater conditions, a buffer of 15-30 metres from the bank full channel of the watercourse would likely be required.

POLICY REVIEW

Below is a summary of applicable policies and constraints/implications for any future development activities.

FEDERAL

Species at Risk Act (2002)

This legislation provides the federal mandate for the protection of species identified as Endangered, Threatened or Special Concern at the federal level. While these are only fully protected on federal lands, they are recognized under the Province's Significant Wildlife Habitat categories under the PPS (2020).

Site Implications: On private lands, SARA only applies to listed aquatic species and migratory birds protected under the *Migratory Birds Convention Act, 1994* (Government of Canada, 1994). Critical habitat for these species is also protected. At this point only background information has been collected. If Species at Risk are confirmed to be present on or near the property based on detailed seasonal studies, appropriate timing of work and other mitigation may be required to avoid impacts to protected species.

Fisheries Act (1985)

The Federal Fisheries Act was established in 1985 with amendments that came into effect on November 25, 2013 and June 21, 2019. This Act provides protection to fish and fish habitat such that *"No person shall carry on any work, undertaking or activity that results in the harmful alteration, disruption or destruction of fish habitat"* (Section 35 (1)). Fish habitat is defined by the Act as *"water frequented by fish and any other areas on which fish depend directly or indirectly to carry out their life processes, including spawning grounds and nursery, rearing, food supply and migration areas"*.

The Fisheries Act requires that any development project avoid harmful alteration, disruption, or destruction of fish habitat (HADD) unless authorized by Fisheries and Oceans Canada (DFO). If mitigation measures cannot be applied, and residual effects will cause HADD, then provisions under the Act may apply (i.e., approval).

Site Implications: The Fisheries Act applies to the tributaries on or in proximity to the property where fish habitat may be present. Development setbacks (15 or 30 m) generally address protection of fish habitat; however, development requiring in-water works or potentially contributing to degradation of downstream fish habitat would require adherence to the Act and its Regulations. Online guidance provided by DFO identifies a set of standard projects where impacts to fish and fish habitat can be avoided if certain mitigation measures can be followed.

Migratory Birds Convention Act (1994)

Most species of birds in Canada are protected under this act through the Migratory Birds Regulations and the Migratory Birds Sanctuary Guidelines. These policies and regulations ensure the protection of listed migratory bird species, their nests, eggs and offspring. In its application, it requires best management practices to detect and avoid disturbance to active nests during development activities.

Site Implications: Incidental take of migratory birds, nests or eggs must be avoided by limiting construction activities during sensitive periods and mitigation measures to ensure appropriate nesting areas are re-established in the site. Vegetation clearing should not take place within the active nesting season between approximately April 15 and August 15. If the areas proposed for development are thoroughly checked during the active breeding season for bird nests by a qualified biologist during the construction phase, and no nests are found, then construction may be permitted.

PROVINCIAL

Endangered Species Act (2007)

This legislation provides the provincial mandate for the protection of species identified as Endangered, Threatened or Special Concern at the provincial level. Significant habitats of provincially Endangered and Threatened species are specifically protected from development, and habitats of provincial Special Concern species are recognized under the Province's Significant Wildlife Habitat categories.

Site Implications: At this point only background information has been reviewed. It is possible that the barn and several of the mature trees would qualify as Species at Risk habitat and would require further seasonal investigations if removal is proposed. If Provincially designated Species at Risk are confirmed to be present on or near the property, appropriate timing of work and mitigation would be required to limit impacts on protected species.

Provincial Policy Statement (2020)

The Provincial Policy Statement (PPS) is issued under the authority of Section 3 of the Planning Act (Government of Ontario, 1990a). Section 3 requires that decisions affecting planning matters "shall be consistent with" policy statements under the Act. It should also be noted that Page 2 of the PPS establishes that the PPS is to be read in its entirety and all relevant policies are to be applied to each situation.

Section 2.1 of the Provincial Policy Statement, which relates specifically to natural heritage, establishes clear direction on the adoption of an ecosystem approach, and the protection of resources that have been identified as 'significant': wetlands, woodlands, valleylands, wildlife habitat, areas of natural and scientific interest, and coastal wetlands.

Relevant portions of the Section 2.1 include the following:

Section 2.1.4 of the PPS states that development and site alteration of the following features is not permitted in:

- a) *Significant wetlands in Ecoregions 5E, 6E and 7E; and*
- b) *Significant coastal wetlands.*

Section 2.1.5 states that development and site alteration is not permitted in the following features, unless it has been demonstrated that there will be *no negative impacts* on the natural features or their ecological functions:

- a) *significant wetlands in the Canadian Shield north of Ecoregions 5E, 6E and 7E1;*
- b) *significant woodlands in Ecoregions 6E and 7E (excluding islands in Lake Huron and the St. Marys River);*
- c) *significant valleylands in Ecoregions 6E and 7E (excluding islands in Lake Huron and the St. Marys River);*
- d) *significant wildlife habitat;*
- e) *significant areas of natural and scientific interest; and*
- f) *coastal wetlands in Ecoregions 5E, 6E and 7E1 that are not subject to policy 2.1.4(b)*

Per section 2.1.6 and 2.1.7, development and site alterations within the following features are not permitted, except in accordance with provincial and federal requirements:

- a) *Fish habitat; and*
- b) *Habitat of Endangered and Threatened species.*

In accordance with section 2.1.8, development and site alteration on *adjacent lands* to natural heritage features identified in Section 2.1.4, 2.1.5 and 2.1.6 are not permitted unless there has been an evaluation of the ecological function of the adjacent lands and it has been demonstrated that there will be *no negative impacts* on the natural features or on their ecological functions (OMMAH, 2005).

In March 2010, the Province released the finalized Second Edition of the Natural Reference Manual (NHRM), which was intended to guide the implementation of the 2005 PPS (OMNR, 2010). This update explicitly recognizes linkages “*between & among natural heritage features & areas, surface water features & ground water features, & hydrological functions*” which are necessary for the ecological and hydrological integrity of watersheds.

Site Implications: Based on background information and a site visit, there are no wetland features present on the subject property. Woodlands are present on portions or in proximity to the property and are contiguous with woodlands throughout the Dundas Valley Environmentally Sensitive Area. The off-property northern-most woodland is identified as Significant Woodland in the Rural Official Plan. As discussed above, the on-property southern cultural woodland would likely not qualify as Significant Woodland under the City’s Official Plan criteria. Determination whether Significant Wildlife Habitat (SWH) exists on the property would require further seasonal studies, but the presence of mature trees and surrounding woodlands is likely a precursor for certain triggers of SHW. The watercourses that flow along the north and east edges of the property would need to be evaluated to determine if they are fish habitat, in which case regulation under the federal Fisheries Act would apply.

Niagara Escarpment Plan (2020 Consolidation)

The Niagara Escarpment Plan (NEP), the Oak Ridges Moraine Conservation Plan and the Greenbelt Plan work within the framework set out by the Growth Plan for the Greater Golden Horseshoe for where and how future population and employment growth should be accommodated. Together, the four provincial plans build on the Provincial Policy Statement to establish a land use planning framework for the Greater Golden Horseshoe and the Greenbelt Plan Area that supports a thriving economy, a clean

and healthy environment and social equity. Three different designations within the NEP straddle the subject property: Escarpment Natural Area, Escarpment Protection Area, and Escarpment Urban Area.

Escarpment Natural Area overlaps the northern border of the property and coincides with woodland including the nearby valleylands/ESA. The central open portion of the property and existing house fall within Escarpment Protection Area which includes lands that are important because of their visual prominence and their environmental significance: *“Included in this designation are Escarpment Related Landforms and natural heritage and hydrologic features that have been significantly modified by land use activities, such as agriculture or residential development, as well as lands needed to buffer Escarpment Natural Areas and natural areas of regional significance.”* Relevant permitted uses within these two designations include Existing Uses, Single Dwellings, Infrastructure, accessory uses, and home occupations. The NEP section 1.3.4 and section 1.4.4 discussing lot creation within Escarpment Natural Areas and Escarpment Protection Areas, respectively, the following is stated:

“New lots may be created, subject to conformity with the provisions of this section, the applicable policies in Part 2, Development Criteria, and official plans and, where applicable, zoning by-laws that are not in conflict with the Niagara Escarpment Plan.

- 1. A lot may be created by severing one original township lot or original township half lot, from another original township lot or original township half lot, provided there have been no previous lots severed from one of the affected original township lots or original township half lots. Such severances shall only occur along the original township lot line.”*

The small triangular portion in the south of the property, also within the City’s urban boundary, is designated Escarpment Urban. NEP section 1.7.4 Permitted Uses and Lot Creation, states:

“Proposed uses and the creation of new lots may be permitted, subject to conformity with Part 2, Development Criteria, the Development Objectives and, where applicable, zoning bylaws that are not in conflict with the Niagara Escarpment Plan. Changes to permitted uses, expansions and alterations of existing uses or the creation of new lots within the Urban Area designation will not require an amendment to the Niagara Escarpment Plan.”

The Key Natural Heritage Features (e.g. Significant Woodland) and Key Hydrologic Features (e.g. watercourse) identified within the City’s Rural and Urban Natural Heritage System share the same designations under the NEP. NEP Policy 2.7.2 states that development within key natural heritage features is not permitted, with the exception of a single dwelling and accessory facilities located outside of a wetland and on an existing lot of record. The woodland at south end of the property is likely not significant, but falls under policy 2.7.12:

“ 12. Development where permitted in woodlands should protect and where possible enhance the woodland and associated wildlife habitat. All development involving the cutting of trees requires approval from the implementing authority, subject to the following criteria:

- a) cutting of trees and removal of vegetation shall be limited to the minimum necessary to accommodate the permitted use;*
- b) using tree-cutting methods designed to minimize negative impacts on the natural environment, including surface drainage and groundwater;*
- c) minimizing disruption to wildlife habitat in the area;*
- d) retaining the diversity of native species;*

- e) aiming over the long term to protect and where possible enhance the quality and biodiversity of the woodland;*
- f) protecting trees and vegetation to be retained by acceptable means during construction; and*
- g) maintaining existing tree cover or other stabilizing vegetation, on steep slopes in excess of 25 per cent (1:4 slope).”*

Site Implications: Most of the property falls within Escarpment Protection Area classification, with the woodland and watercourse on the northern edges within Escarpment Natural Area. Any proposed development within lands adjacent (120m) to the Key Natural Heritage Features and Key Hydrologic Features may require completion of a natural heritage evaluation (EIS), and the application of 30m vegetation protection zones to each feature. The southwest corner of the property along Sulphur Springs Road is designated Escarpment Urban Area on Map 2 in the NEP. While this woodland is likely not significant, the NEP policies under 2.7.12 apply. The logic of the NEP treatment of the features within the property is not particularly clear; a wooded portion is in Escarpment Urban and the house and manicured lands are in Escarpment Protection. This creates an outlier of Escarpment Protection in an otherwise Escarpment Urban area.

Conservation Authorities Act - Ontario Regulation 161/06 (2006) - Hamilton Conservation Authority

The Hamilton Conservation Authority is authorized under Regulation 161/06 of the Conservation Authorities Act to implement and enforce the regulation of development, interference with wetlands and alterations to shorelines and water courses. Permits are required to identify potential interference in areas within the 100-year floodline, 15 metres of the shoreline, 15 metres within a valley's top of bank, hazard lands and 120 metres around all Provincially Significant Wetlands and 30 metres of all other wetlands.

Site Implications: Due to the presence of the watercourses within the north and east edges of the property, and a valley slope, the north half of the property is regulated by the HCA. An EIS will be required for any proposed development within 15-30m of the watercourses depending on their permanency and cold/warmwater status, and generally a minimum 6 m setback from the stable top of bank. City and NEP protective policies generally exceed HCA requirements.

LOCAL

Rural Hamilton Official Plan and Urban Hamilton Official Plans (2012)

The Rural and Urban Hamilton Official Plan provides a vision for the City's development over the next 30 years, with policies on social, economic and environmental objectives to help achieve this vision. The City's Natural Heritage System Policies are provided under Section C.2.0.

Core Areas are the most important part of the City's Natural Heritage System, and include key natural heritage features (e.g. woodlands), key hydrologic features (e.g. watercourses), and their associated vegetation protection zones (section C.2.3.1). These areas also include any locally or provincially significant natural areas within and outside of the Greenbelt Plan Area (Section 2.3.1). Development may be permitted within certain Core Areas if there are no negative impacts on the environmental features or their ecological functions (Section C.2.3.3).

Section C.2.2.3 speaks to the boundaries of Core Areas; these may be refined through Environmental Impact Studies, watershed studies, or other appropriate studies without an Official Plan Amendment;

Major changes to the boundaries or the removal / addition of Core Areas require an Official Plan amendment.

Section C.2.3.4 specifies that development is not permitted within the following features:

- Provincially significant wetlands;
- Significant coastal wetlands;
- Significant habitat of Endangered or Threatened species (except in accordance with applicable provincial and federal regulations).

Within the Rural OP, the following minimum VPZ shall be further evaluated and refined during an EIS (per section C.2.4.11):

- a) Permanent and intermittent streams: 30-metre vegetation protection zone on each side of the watercourse, measured from beyond the stable top of bank;*
- b) Wetlands: 30-metre vegetation protection zone. The Environmental Impact Statement shall also take into consideration adjacent upland habitat that is required by wetland species for breeding, foraging, dispersal, and other life processes;*
- c) Fish habitat: 30-metre minimum vegetation protection zone measured from beyond either side of the top of bank or meander belt allowance;*
- d) Woodlands: 15-metre minimum vegetation protection zone measured from the drip line of trees at the woodlot edge;*
- e) Significant Woodlands: a minimum 30-metre vegetation protection zone measured from the drip line of trees at the woodlot edge;*
- f) Life Science Areas of Natural and Scientific Interest (ANSIs): a minimum 30 metre vegetation protection zone;*
- g) Designated valley lands: 15-metre minimum vegetation protection zone measured from top of bank; and*
- h) Lakes: 30-metre vegetation protection zone, measured from the stable top of the shoreline.*

Linkages provide for connections between Core Areas that allow for plant and animal movement, hydrological and nutrient cycling, and overall maintenance of the Natural Heritage System's functioning (section C.2.7.1). Linkages include the following, per section C.2.7.2:

- a) Woodland linkages;*
- b) Other natural vegetation types; or*
- c) Streams and watercourses that connect Core Areas.*

For any proposed development within a linkage, an EIS must include a linkage assessment in accordance with Section F.3.2.2.

Site implications: Most of the property is in the RHOP area, with the southern woodland along Sulphur Springs Road being within the UHOP Area. Rural area mapping shows the forest along the north edge of the property designated as local natural area, Environmentally Sensitive Area (Schedule B-6). Schedule B shows the majority of the woodland bordering the property as Core Area comprised of Key Natural Heritage Feature - Significant Woodland (Schedule B-2). Significant Woodlands within the Rural Area of the City require a minimum 30m Vegetation Protection Zone (VPZ). The watercourses along the north and east side of the property are Key Natural Hydrologic Features, and also require 30m VPZs. These watercourses may be fish habitat, but confirmation of this status would require more detailed investigation. Based on the preliminary site visit, the southern woodland Sulphur Springs Road would

not be significant but would still require a 15m VPZ as it overlaps the Rural Area. A small portion of this feature is also mapped as a Linkage Feature in UHOP. Any proposed development adjacent (within 120m) of these features including VPZs would require an Environmental Impact Study (EIS) including Linkage Assessment to demonstrate no negative impacts.

CONSTRAINT SUMMARY

Table 1: List of Sensitive Natural Heritage Features

SENSITIVE NATURAL HERITAGE FEATURES	PRESENCE WITHIN STUDY AREA (See Map 1)	CONSTRAINT IMPLICATIONS	POLICY REFERENCE
Key Natural Heritage Feature (Significant Woodlands)	Significant Woodlands overlap northern and eastern property limits (Rural Area)	Minimum 30m VPZ	Rural Hamilton OP (2012), NEP (2017)
Woodland	Woodland is present within southwest corner of the property (Urban/Rural Areas)	Minimum 15m Vegetation Protection Zone	Urban and Rural Hamilton OPs (2012), NEP (2017)
Key Hydrologic Feature (KHF Steams)	Watercourses along east property limit is designated KHF; watercourse along north property limit is not but subject to evaluation.	Minimum 30 m VPZ	Rural and Urban Hamilton OPs (2012), NEP (2017)
HCA Regulated Area	Valley Slope/Top of Bank Watercourses along the east and north property limits.	6m Setback from Stable Top of Slope 15/30 m fisheries setback	Ontario Regulation 161/06 (2006)

CONSTRAINT MAPS

Figure 1 shows the subject property and applicable policy layers. Figure 2 shows the natural heritage features confirmed through the site investigation and associated minimum setbacks/vegetation protection zones (preliminary).

CONCLUSIONS

Based on our background review and May 6th site visit, several natural heritage features were identified on or adjacent to the property. These features can be broken down into highest, moderate, and lowest constraint rankings based on their proximity to the study area and potential to restrict any proposed development. The highest constraints within the property relate to the Core Areas identified in the City of Hamilton's Urban and Rural Official Plan, reflecting those in the Niagara Escarpment Plan. These include Key Natural Heritage Features - Significant Woodlands and Key Hydrologic Features - Watercourses. An EIS would be required to the satisfaction of the City, Niagara Escarpment Commission, and GRCA for any proposed development within 120m of these features. In general, the intent of an EIS is to confirm the feature boundaries, characterize the features and ecological functions, and to determine if impacts to these features are anticipated based proposed development. Additional regulations and municipal by-laws may also apply outside of the natural feature limits, such as for the removal of trees outside woodlands, depending on the extent of the proposed development.

In summary, the following potential constraints were confirmed during the May 6th site and through the background review:

Highest Constraint (i.e. no development allowed): Core Areas + minimum 15-30m VPZs

Specific features include:

- Key Hydrologic Feature (watercourses)
- Key Natural Heritage Feature - Significant Woodlands (including Environmentally Sensitive Area)
- Woodland (currently mapped as KNHF Significant Woodland by City)

Moderate Constraint (i.e. some development potential; EIS and potentially permits required): subject property and 120m adjacent lands and regulated Areas.

Additional constraints may include, subject to further investigation:

- Significant Wildlife Habitat (to be further evaluated in EIS)
 - Bat Maternity Colonies (candidate)
 - Woodland Area Sensitive Bird Breeding Habitat (candidate)
 - Special Concern and Rare Wildlife Species (candidate)
- Barn Swallow Habitat (barn – to be determined)
- Significant Habitat of Endangered or Threatened Species (to be determined)
- Species at risk bat habitat (barn and trees within the property – to be determined)

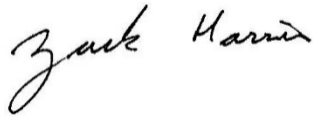
Low Constraint (development feasible) – balance of property outside KNHF and KHF features and Regulated Areas

The logic of the NEP treatment of the features within the property is not particularly clear; a portion of the wooded area is in Escarpment Urban and the house and manicured lands are in Escarpment Protection, creating an outlier of Escarpment Protection in an otherwise Escarpment Urban area. Given the concentration of roads and current urban uses, the property is already functionally urban. The City

mapping basically matches NEP designated areas. **Therefore, an application to modify the NEP and urban boundaries likely has defensible merits on natural heritage grounds.**

Please review and advise. We welcome your call with any questions or concerns.

Sincerely,



Zack Harris, BSc., MSc., ISA
Ecologist



Jim Dougan, BSc, MSc, OALA (Hon)
Senior Ecologist, Director

Appendix A. NHIC SAR Records

SPECIES	SARO	COSEWIC
Birds		
Northern Bobwhite	END	END
Yellow-breasted Chat	END	END
Louisiana Waterthrush	THR	THR
Wood Thrush	SC	THR
Eastern Meadowlark	THR	THR
Bobolink	THR	THR
Insects		
Clamp-tipped Emerald		
American Burying Beetle	EXP	EXP
Plants		
Perfoliate Bellwort		
American Chestnut	END	END
Butternut	END	END
Reptiles and Amphibians		
Midland Painted Turtle	---	SC
Snapping Turtle	SC	SC
Eastern Milksnake	NAR	SC
Timber rattlesnake	EXP	EXP
Unknown		
Restricted Species		

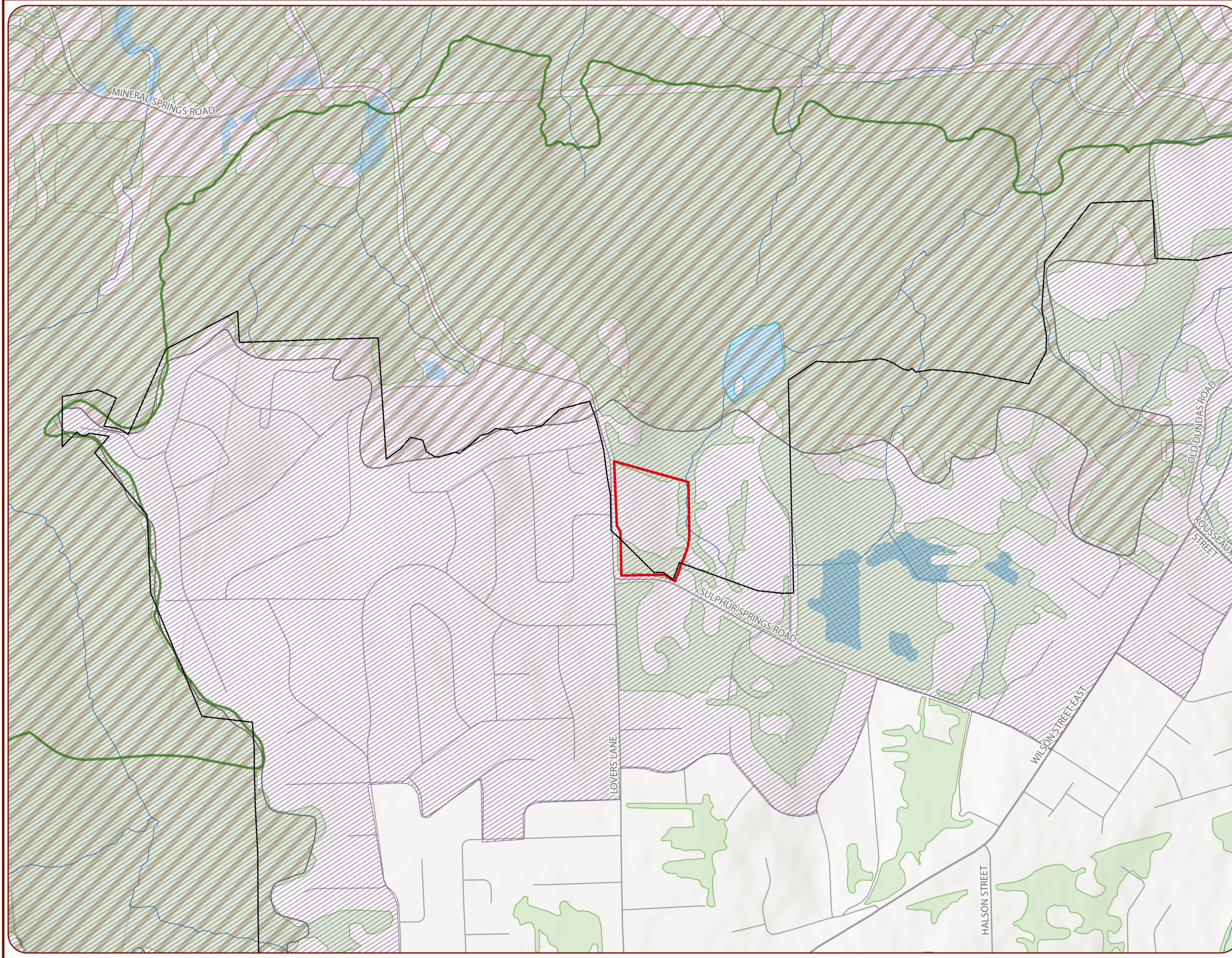










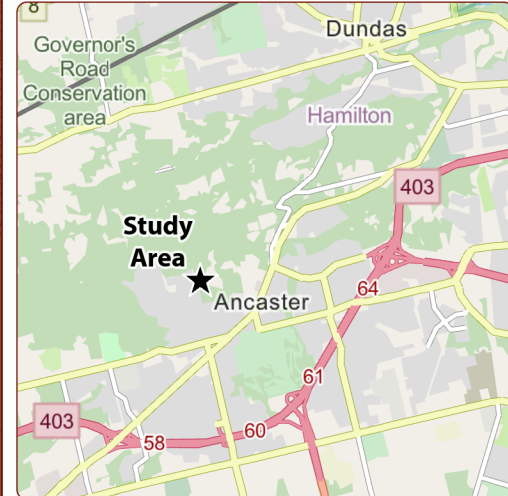


Figure 1: Background
Sulphur Springs Road
Constraints Assessment


-  Subject Property
-  Wooded Area
(Ministry of Natural Resources and Forestry)
-  Watercourse
(Hamilton Conservation Authority)
-  Waterbody
(Hamilton Conservation Authority)
-  Escarpment Boundary
(City of Hamilton)
-  Environmentally Sensitive Area
(City of Hamilton)
-  Urban Boundary
(City of Hamilton)
-  Niagara Escarpment Plan
Boundary
(Niagara Escarpment Commission)
- Wetland (MNR)**
-  Evaluated - Other
-  Not evaluated per OWES



World Topographic Map: Esri Community Maps Contributors, City of Hamilton, Province of Ontario, Esri Canada, Esri, HERE, Garmin, INCREMENT P, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, NRCan, Parks Canada
World Hillshade: Esri, NASA, NGA, USGS, FEMA
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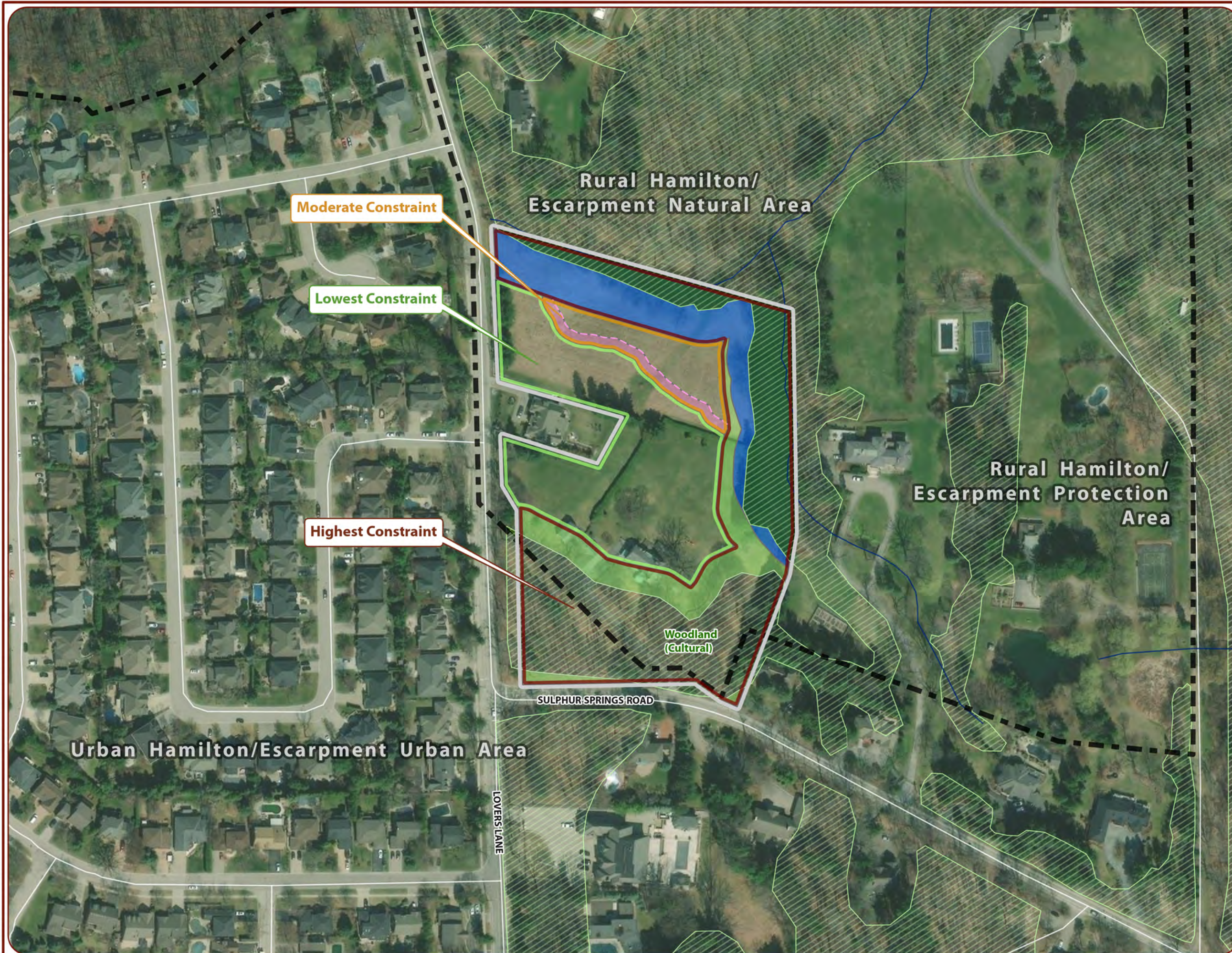
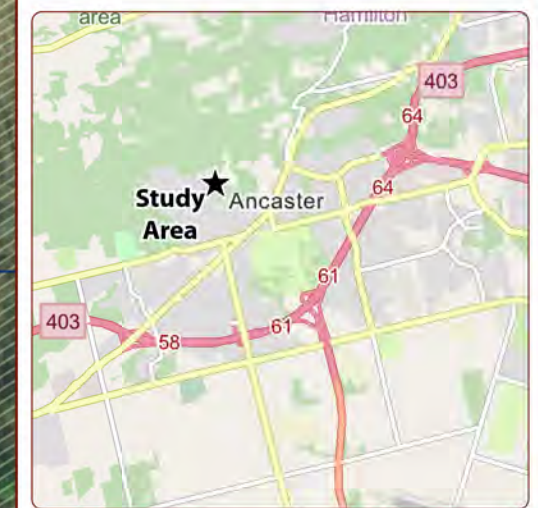
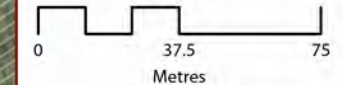


Figure 2:
Ecological Constraints
Sulphur Springs Road
Constraints Assessment

- Subject Property
- Wooded Area
(Ministry of Natural Resources and Forestry)
- Urban Boundary
- Top of Valley
(Hamilton Conservation Authority)
- Top of Valley Setback
6-metre
- CORE AREA (CITY OF HAMILTON/NEP NHS)**
- Key Natural Heritage Feature**
- Significant Woodland
- Significant Woodland Vegetation
Protection Zone
15-metre
- Key Hydrologic Feature**
- Watercourse
(Hamilton Conservation Authority)
- Watercourse Vegetation Protection
Zone
30-metre



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