



TECHNICAL MEMORANDUM

Subject: Natural Heritage Constraints Analysis, Plan 950 Part Lot 23 RP 16R2789 Part 1
File No.: Birks NHC 03-016-2023
To: Paul Mondell
From: Melissa Fuller, H.B.Sc., Ecologist, Birks Natural Heritage Consultants, Inc.
Date: June 6, 2023

Birks Natural Heritage Consultants, Inc. (Birks NHC) was retained to undertake the preparation of a Natural Heritage Constraints Analysis for the property described above and further identified in the attached figures. As you are aware, the property is zoned by the Town of Blue Mountains as Development, Wetland, and Hazard within the municipal Zoning By-law. The property and adjacent lands also contain woodlands mapped by the County of Grey as Significant Woodlands and wetlands mapped as Other Wetlands (Official Plan, 2023). Further, the property is under the jurisdiction of Nottawasaga Valley Conservation Authority (NVCA) and regulated due to the presence of a watercourse and unevaluated wetlands.

This preliminary analysis will characterize key natural heritage features associated with the property and adjacent lands that may represent opportunities or constraints to future land use change and assist in identifying lands which may be appropriate for development based upon the current applicable municipal, regional, and provincial policies. This Technical Memorandum also provides recommendations for additional studies, where necessary, to accurately define those natural heritage features associated with the property.

1 BACKGROUND DATA REVIEW AND SOURCES

The following background documents and sources were reviewed as part of this analysis:

- Niagara Escarpment Plan (2021);
- Greenbelt Plan (2017);
- Growth Plan for the Greater Golden Horseshoe (2020);
- County of Grey Official Plan (2023);
- Town of The Blue Mountains Official Plan (2016);
- Natural Heritage Information Centre (MNRF, 2023);



- Ontario Breeding Bird Atlas Square Resources (Birds Canada, 2023);
- Ontario Reptile and Amphibian Atlas (Ontario Nature, 2023);
- Land Information Ontario (MNRF, 2022);
- Species at Risk in Ontario list (MECP, 2023);
- Aquatic Species at Risk distribution map (DFO, 2023); and
- Nottawasaga Valley Conservation Authority (NVCA) Regulation mapping.

2 SITE ASSESSMENT AND GENERAL OVERVIEW

Birks NHC staff conducted a site assessment on May 19, 2023. This assessment consisted of an inspection of the natural areas of the property and adjacent lands, where visible from the property limit, to identify key natural heritage features (KNHFs), key hydrologic features (KHF) and functions. Consideration was given to the habitat requirements of species listed as Threatened or Endangered under Ontario Regulation (O. Reg) 230/08 of the *Endangered Species Act, 2007* (ESA). Other natural heritage features and functions were assessed based on the criteria set out in various applicable policy documents [*i.e.*, Natural Heritage Reference Manual for Natural Heritage Policies of the Provincial Policy Statement (MNR, 2010) and Significant Wildlife Habitat Criteria Schedules for Ecoregion 6E (MNRF, 2015)].

The property measures approximately 9.8 hectares (ha) and contains woodlands, wetlands, and culturally influenced lands (Figure 1). A drainage feature originates in the south-western wetland area of the property and flows in a general north-easterly direction, through an open pond area and woodlands, exits the property within a roadside ditch along the southern right-of-way of Grey Road 19 (Figure 1). A second feature originates south of the Study Area, enters the property through a thicket swamp and converges with the other branch within an area of ponding. There are buildings and structures in the north-eastern portion of the property with associated disturbed lands (*i.e.*, cultural meadow/lawn, gardens, unpaved access, drainage crossings and trails).

3 POLICY FRAMEWORK

3.1 Provincial Policy Statement (2020)

Ontario's *Planning Act*, 1990 requires that planning decisions be consistent with the Provincial Policy Statement (PPS, 2020). Section 2.1 of the PPS specifies policy related to protection of natural heritage features and functions. All proposed development needs to meet the “no negative impact” test and demonstrate that there will be no negative impacts to the natural features and their ecological functions per Section 2.1 of the PPS. According to Section 2.1.4 of the PPS, development and site alteration shall not be permitted in the following features:

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



Additional features are protected by Section 2.1.5 of the PPS which states that development and site alteration shall not be permitted in the following natural features unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions:

- a) Significant woodlands in Ecoregions 6E and 7E;
- b) Significant valleylands in Ecoregions 6E and 7E;
- c) Significant wildlife habitat;
- d) Significant areas of natural and scientific interest (ANSI); and
- e) Coastal wetlands in Ecoregions 5E, 6E, and 7E that are not subject to policy 2.1.4(b).

Sections 2.1.6 and 2.1.7 state that development and site alteration is not permitted in fish habitat or habitat of endangered and threatened species except in accordance with federal and provincial requirements.

Section 2.1.8 extends protection of those features defined above in policies 2.1.4, 2.1.5 and 2.1.6 to adjacent lands, typically those within 120 m of the potential impact. Section 2.1.8 states that development and site alteration shall not be permitted on adjacent lands to natural heritage features identified in policies 2.1.4, 2.1.5, and 2.1.6 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological function.

While many of these features are mapped and direction is available to allow for candidate features and functions to be identified, it remains the responsibility of the province and/or the municipality to designate areas identified within Section 2.1.4 and 2.1.5 of the PPS as significant. The Natural Heritage Reference Manual (MNR, 2010) and Significant Wildlife Habitat Criterion Schedule for Ecoregion 6E (MNR, 2015) were used to identify candidate features and functions not currently identified by the province and/or municipality.

3.2 Endangered Species Act (2007)

Ontario's *Endangered Species Act* (ESA) provides regulatory protection to species at risk, prohibiting harassment, harm and/or killing of individuals and destruction of their habitats. Habitat of the species is defined as: the habitat features prescribed by regulation of the ESA; or, areas on which the species depends, directly or indirectly, to carry on its life processes, as described within reference documents (*i.e.*, species status reports and recovery strategies, technical reports, scientific articles) and based on internal data available from applicable agencies.

O. Reg 230/08 of the ESA identifies Species at Risk in Ontario and includes species listed as Extirpated, Endangered, Threatened, and Special Concern. Only species listed as Endangered and Threatened receive species and habitat protection through the ESA. Species designated as Special Concern may receive protection under the Significant Wildlife Habitat provisions of the PPS.



3.3 Fisheries Act (1985)

The purpose of the federal *Fisheries Act*, 1985 is in part, to provide a framework for the conservation and protection of fish and fish habitat through the various regulations that protect against serious harm to fish by death or any permanent or temporary harmful alteration, disruption or destruction (HADD) to their habitat. Fish habitat is defined within the Act as “spawning grounds and any other areas, including nursery, rearing, food supply and migration areas, on which fish depend directly or indirectly in order to carry out their life processes”. The fish and fish habitat protection provisions of the *Fisheries Act*, 1985 include:

- A prohibition against causing the death of fish, by means other than fishing (Section 34.4);
- A prohibition against causing the harmful alteration, disruption or destruction of fish habitat (Section 35);
- Establishment of standards and codes of practice in relation to works, undertakings and activities during any phase of their construction, operation, modification, decommissioning or abandonment for the avoidance of death to fish, HADD, and for the prevention of pollution (Section 34.2); and,
- Ministerial powers to ensure the free passage of fish or the protection of fish or fish habitat with respect to existing obstructions (Section 34.3).

The interpretation and application of the regulations of the *Fisheries Act*, 1985 is overseen by Fisheries and Oceans Canada (DFO). Under the direction of DFO, projects that have potential to affect fish and fish habitat are to be screened using their online guidance platform, 'Projects Near Water' to determine if the project will require review under the *Fisheries Act*, 1985. Projects that can not implement measures to mitigate impact to fish and fish habitat, and do not qualify under the current standards and Codes of Practice, require review by DFO prior to any site disturbance or alteration, including vegetation removal and grading.

3.4 Niagara Escarpment Plan (2021)

The Niagara Escarpment Plan (NEP) seeks to protect the geologic feature of the Niagara Escarpment and lands in its vicinity as a continuous natural environment while allowing only compatible development. The NEP builds upon the PPS policies and works alongside the Oak Ridges Moraine Plan and the Greenbelt Plan providing direction regarding accommodation of future growth near sensitive lands.

The property is mapped in the NEP as Escarpment Recreation Area (Appendix A). Designated Recreation Areas are areas of existing or potential recreational development associated with the Escarpment. Such areas may include both seasonal and permanent residences. Subject to Part 2 of the NEP (Development Criteria), the following uses may be permitted: existing uses, single and secondary dwellings, agricultural and agricultural related uses, nature preserves, recreational (*i.e.*, Bruce trail, golf courses, ski centre facilities), and development associated with a ski centre or a lakeshore residential area (Section 1.8.3 of the NEP). New lots may be created for permitted uses, subject to the Development Criteria in Part 2, provided that the development objectives of Section 1.8 (Escarpment Recreation Area) of the NEP and the



requirements of applicable official plans, secondary plans and/or by-laws that are not in conflict with the NEP (Section 2.4 of the NEP). Permitted development should be designed and located in such a manner as to focus new development in Escarpment Recreation Areas (among others) such that access to the Niagara Escarpment and the Bruce Trail corridor is maintained, and in consideration of KNHF and KHF.

Within the NECP plan area, development is not permitted in KHF or KNHF with the exception of the following, which may be permitted subject to compliance with all other relevant policies of this Plan:

- development of a single dwelling and accessory facilities outside a wetland on an existing lot of record, provided that the disturbance is minimal and where possible temporary;
- forest, fisheries and wildlife management to maintain or enhance the feature;
- conservation and flood or erosion control projects, after all alternatives have been considered;
- the Bruce Trail, and other trails, boardwalks and docks on parks and open space lands that are part of the Parks and Open Space System; and,
- infrastructure, where the project has been deemed necessary to the public interest and there is no other alternative.

(NEP, 2021 Sections 2.6.2 and 2.7.2)

If in the opinion of the implementing authority, a proposal for development within 120 m of a KHF or KNHF has the potential to result in a negative impact on the feature and/or its functions, or on the connectivity between key features, a natural heritage evaluation (NHE) / environmental impact study (EIS) will be required.

3.5 Greenbelt Plan (2017)

The Greenbelt Plan, together with the Oak Ridges Moraine Conservation Plan and the NEP, builds on the PPS to establish a land use planning framework that supports protection to the agricultural land base and the ecological features and functions occurring on the 'Greater Golden Horseshoe' landscape. The property is mapped as NEP within the Greenbelt Plan. As such, the requirements of the NEP continue to apply.

3.6 Growth Plan for the Greater Golden Horseshoe (2020)

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) was issued under the authority of Section 7 of the *Places to Grow Act*, 2005. It was most recently amended and replaces the initial Growth Plan that took effect in 2017. Like other provincial plans, the Growth Plan builds upon the policy foundation provided by the PPS and provides additional and more specific land use planning policies to address issues facing specific geographic areas in Ontario. Within the Greater Golden Horseshoe, this includes the Greenbelt Plan, the Oak Ridges Moraine Conservation Plan and the NEP. As mentioned above, the property falls within the NEP area. The property is also outside of the mapped Natural Heritage System for the Growth Plan. As such, policies of the Growth Plan that address the same matters as the NEP do not apply.



3.7 Nottawasaga Valley Conservation Authority

The property is under the jurisdiction of NVCA and regulated under O. Reg 172/06 *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses* due to watercourses and wetlands being present on the property (Appendix B).

3.8 County of Grey Official Plan (2023)

The County of Grey Official Plan Schedule A, Map 2, illustrates the property as within Recreational Resort Settlement Area. The Recreational Resort Settlement Area applies to settlement areas which have been developed as a result of site specific amendments to the County of Grey Official Plan and/or local official plan consisting of a defined development area, specific recreational amenities, residential development and serviced with full municipal services (County of Grey, 2023, Section 3.8). The Recreational Resort Settlement Area land use type will strive to enhance recreational and tourism related activities. New development in the Recreational Resort Settlement Area land use type must serve the public interest by contributing to the provision of community recreational amenities, by facilitating municipal service infrastructure, and by accommodating existing un-serviced development areas and areas with development potential within the existing land use type or in settlement areas (County of Grey, 2023, Section 3.8). Local official plans and/or secondary plans will provide detailed land use policies and development criteria in these areas that are not in conflict with the provisions of the NEP (County of Grey, 2023, Section 6.1).

The County of Grey Official Plan Appendix B, Map 3, further illustrates the Study Area as containing Significant Woodlands, Other Wetlands, and Stream/River (Appendix C). No development or site alterations are permitted within Significant Woodlands, Other Wetlands or their adjacent lands unless it has been demonstrated through an EIS that there will be no negative impacts on the natural features or their ecological functions (County of Grey, 2023, Sections 7.3.2 and 7.4). The County of Grey generally encourages development be setback from wetlands, streams and rivers by at least 30 metres. In some cases, the setback can be reduced based on site specific circumstances or through the completion of an EIS.

3.9 Town of The Blue Mountains Official Plan (2016)

The Town of The Blue Mountains identifies the lands as being within a future Secondary Plan Area (Schedule A-4 of the Official Plan), and subject to the policies outlined within B3.13 of the Town's Official Plan. Provided that development of the property can proceed in isolation of the Future Secondary Plan process, the following natural heritage policies of the Town shall be considered in the development of a suitable site plan for the property.

The Town of The Blue Mountains Official Plan Constraint Mapping illustrates Significant Woodlands, Other Wetlands, and Stream/River on the property (Appendix D). No development or site alteration is permitted within Significant Woodlands or Other Wetlands, unless it has been demonstrated that there will be no negative impacts on the features of their ecological functions (Town of The Blue Mountains, 2016, Section



B5.2). Development adjacent to Wetland areas may be subject to Site Plan Control and an accompanying Development Agreement (Town of The Blue Mountains, 2016, Section B5.3.2).

The property is depicted by the Town of The Blue Mountains Zoning By-law as Development (D), Wetland (WL), Holding (h1-lands adjacent to wetland zone) and Hazard (H); provided in Appendix D of this report.

No buildings or structures are permitted within Hazard Lands, except for the following: renovated or minor expansions to existing buildings and structures which were legally established on the date of approval of the Official Plan; non-habitable buildings connected with public parks (*i.e.*, picnic shelters); flood and erosion/sedimentation control structures; fences; and, recreational facilities as approved by the Niagara Escarpment Commission, on lands identified as being prominent escarpment slope (Town of The Blue Mountains, 2016, B5.4.2). Hazard designated lands within the Niagara Escarpment are also subject to the policies of the NEP.

Buildings and structures are to be setback 30 m from all drainage features (Town of The Blue Mountains, 2016, B5.4.2d). Further, development is to be setback from the top of bank of all slopes and ravines having a slope of 3:1 or greater, in accordance with the requirements of the appropriate Conservation Authority (Town of The Blue Mountains, 2016, B5.4.2f).

4 KEY NATURAL HERITAGE FEATURES AND FUNCTIONS

The following summarizes the KNHFs and KHF and functions attributable to the property and adjacent lands based on existing designations/delineations by agencies and as revealed through the application of guidelines for identification of significant natural features and functions.

4.1 Provincially Significant Wetland

There are no Provincially Significant Wetlands mapped on the property or adjacent lands.

4.2 Other Wetlands

The Town of The Blue Mountains Official Plan (2016) and the County of Grey Official Plan (2023) identify Other Wetlands in the Study Area (Figure 2). Birks NHC confirmed the presence of wetland habitats on the property during the site assessment (Figure 1). A wetland delineation exercise will be required as part of the completion of an EIS to confirm the extent of wetland habitats within the property limits.

4.3 Significant Woodlands

The County of Grey Official Plan (2023) and the Town of the Blue Mountains Official Plan (2016) identifies Significant Woodlands on the property and adjacent lands (Figure 2). It is our understanding that the identification of Significant Woodlands by the County was primarily an exercise based on interpretation of aerial photography. As such, inaccuracies in the mapping may be present and there may be opportunity to provide justification for the alteration of the Significant Woodland boundary. A formal assessment of



the property woodlands will therefore be required to confirm the extent of Significant Woodland associated with the property as part of the completion of an EIS.

4.4 Candidate Significant Wildlife Habitat

Significant Wildlife Habitat functions were assessed utilizing knowledge of the site and background information. Habitat and species data sources were reviewed in addition to field data gathered by Birks NHC. According to the Significant Wildlife Habitat Criteria Schedules for Ecoregion 6E (MNRF, 2015), the property and adjacent lands have the potential to provide the following Significant Wildlife Habitat functions:

- Bat Maternity Colonies
- Reptile Hibernaculum
- Woodland Area-Sensitive Bird Breeding Habitat
- Woodland Raptor Nesting Habitat
- Waterfowl Nesting Area
- Colonially-Nesting Bird Breeding Habitat (Trees/Shrubs)
- Amphibian Breeding Habitat and Movement Corridors
- Special Concern and Rare Wildlife Species (*i.e.*, Wood Thrush, Eastern Wood-pewee, Snapping Turtle, Silver Lamprey, Upland Sandpiper, Golden-winged Warbler)
- Terrestrial Crayfish – Confirmed (terrestrial crayfish chimneys observed by Birks NHC)

Field surveys are important to define the potential wildlife functions and would be a requirement of an EIS, to evaluate species presence in the area and the potential for impact to Significant Wildlife Habitat.

4.5 Fish Habitat

The property is located within the Silver Creek subwatershed. Silver Creek arises as a set of tributaries on the Niagara Escarpment, flowing northward through farm fields, rural residential areas and forests before entering a coastal wetland and discharging into Georgian Bay (NVCA, 2023).

A drainage feature originates in the south-western wetland area of the property and flows in a general north-eastly direction. A second feature originates south of the Study Area, enters through a thicket swamp section of the property and converges at the ponding area with the other feature. Barriers to fish movement were identified within the property, associated with informal creek crossings. Direct fish habitat is expected to be present within the property within the reach accessible to the community within Grey Road 19 right-of-way (Figure 1). All of the features upstream of the first barrier to fish is considered to be indirect fish habitat.

Fish sampling information available from Land Information Ontario indicates that Blacknose Dace, Creek Chub, Johnny Darter, and Northern Redbelly Dace have been recorded in the watercourse, downstream of the Study Area, west of Osler Bluff Road. Fish were also observed in the watercourse within the Study Area (but not the property limits) during the site visit. Aquatic Species at Risk are mapped in the area



(Silver Lamprey; DFO, 2023). The preliminary assessment of the watercourse traversing the property is that the feature provides both indirect and direct fish habitat. Further characterization of fish habitat associated within the Study Area will be required in order to obtain a fulsome understanding of potential impacts and determine the requirement for review of the project under the Federal *Fisheries Act*, 1985.

4.6 Potential Habitat of Threatened and Endangered Species

The habitat requirements of those species listed as Threatened and Endangered under the ESA were considered in relation to the habitat features noted within the property limits and the adjacent lands. Based on habitat use, site knowledge and data available, it was determined that potential habitat for the following Threatened and Endangered species may be present in the property or adjacent lands:

4.6.1 Butternut (Endangered)

Butternut is a small to medium sized deciduous tree that is listed as an Endangered species in Ontario. The Endangered status of Butternut is based on observed declines due to a fungal disease known as Butternut Canker that often results in tree mortality. This tree species can grow in a variety of treed and open habitats, individually or in small groups. Disturbed areas (*i.e.*, fencerow, road, trail) are more likely to have Butternut because the tree species is intolerant of shade and requires open sunlight, however Butternut can also occur in forested communities in a canopy opening or near the forest edge. No Butternut trees were observed on the property during the site visit.

4.6.2 Endangered Bat Species

Assessment of the characteristics of woodlands as they relate to potential use by Endangered bat species (Little Brown Myotis, Northern Myotis, Tri-colored Bat) is a consideration in land development. Woodlands providing a relatively high density of large wildlife cavity trees (*i.e.*, snags) have the potential to function as habitat for one or more Endangered bat species. Little Brown Myotis has generally been restricted to anthropogenic structures that provide suitable roosting habitat and often form large maternity roost colonies.

The presence of large diameter trees (*i.e.*, 25 cm diameter breast height [DBH]) with features which could be used by bats such as cavities, loose bark, and cracks were documented at the time of the site assessment, particularly within forest communities in the south of the property. Further characterization of the forested areas will be required in order to evaluate for potential Endangered bat species habitat and presence in the area.

4.6.3 Eastern Meadowlark and Bobolink (Threatened)

Bobolink and Eastern Meadowlark are two medium sized birds that are both listed as Threatened species under the ESA. Historically these species nested in native prairies and grasslands in Ontario, however they also benefitted from land clearing for agriculture associated with European settlement. Today they are most common in areas of agricultural grasslands such as hay and pasture farm fields. Habitat for Bobolink and Eastern Meadowlark therefore occurs primarily on pasture lands and fallow fields. Both species have been recorded in the area (NHIC square 17NK5626, 17NK5627, 17NK27, 17NK5726; Breeding Bird Atlas



square 17TNK52) and if permitted naturalize, the cultural meadow habitats on the property may provide habitat for these species.

5 DEVELOPMENT OPPORTUNITIES AND CONSTRAINTS

Natural heritage constraints mapping for the property is presented in Figure 2 and Figure 3. Based on the analysis, areas of high, moderate and low development constraint have been identified.

5.1 High Constraint

5.1.1 Watercourses / Direct Fish Habitat

The protection of fish and fish habitat is a federal responsibility and is administered by DFO through the federal *Fisheries Act*, 1985 which stipulates that no one may carry out any undertaking that would result in the HADD of fish habitat unless such impacts are authorized by DFO. Fish habitat is further protected under the provincial and local policies where development and site alteration is not permitted in fish habitat and no negative impact is to be demonstrated. Feature alteration within proximity to direct fish habitat is restricted is highly restricted. Approval for alteration may be obtained through the Projects Near Water - Request for Review application made available by the Department of Fisheries and Oceans, however, the project must demonstrate that overall benefit can be achieved, and that no harm will occur to fish or their habitat. Provided overall benefit can be demonstrated, authorization under the *Fisheries Act* is typically not required.

Watercourses and adjacent lands are also regulated by NVCA. NVCA review and approval would be required prior to any site alteration or development within regulated areas.

5.1.2 Wetlands

There are no Provincially Significant Wetlands mapped on the property or adjacent lands, however Other Wetlands are present, as mapped by the County and Town, and observed by Birks NHC. No development or site alteration is permitted within Other Wetlands or their adjacent lands unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions. Further, due to the presence of wetlands within and adjacent to the property, a significant portion of the property is regulated by NVCA. A permit submission to NVCA (under O.Reg 172/06) will be required as part of future development applications.

Wetlands are illustrated on Figure 3 as High natural heritage constraint to development.

5.1.3 Significant Woodland

As discussed above, woodland features in the Study Area have been identified by the Town of The Blue Mountains Official Plan (2016) and the County of Grey Official Plan (2023) as significant. While additional field efforts are required to further assess and characterize the woodlands on the property, preliminary analysis indicates that the woodlands have potential to provide Significant Wildlife Habitat functions.



Provincial and local policies protect Significant Woodlands and Significant Wildlife Habitats from development unless an EIS can demonstrate that there will be no negative impacts to the feature or its ecological functions. This means that ecological functions associated with the woodland feature such as provision of wildlife habitat function, would need to be maintained within the woodland as a whole. Further, development applications before the Town of The Blue Mountains are subject to By-law No. 2010-68 which regulates the destruction or injury of trees.

Significant Woodlands are illustrated on Figure 3 as High natural heritage constraint to development.

5.2 Moderate Constraint

5.2.1 Watercourses / Indirect Fish Habitat

Within areas that have been identified as indirect fish habitat, modification of the feature may be permitted, provided that the activity that can demonstrate overall benefit to fish and fish habitat, and that no net loss of habitat will occur. Approval for alteration can be obtained through the Projects Near Water - Request for Review application made available by the Department of Fisheries and Oceans. Overall benefit can include creation of habitat and/or enhancement of existing habitat. Provided overall benefit can be achieved, authorization under the *Fisheries Act* is typically not required.

5.2.2 Feature Setbacks

Setbacks are important for providing appropriate protections to natural heritage and hydrological features and their inherent functions. The width of the setback which would be required to protect those functions can vary depending on the sensitivity of the KNHF or KHF. Setbacks have been mapped as Moderate constraint due to the variability possible in size, which is based both on discussions with appropriate authorities and level of development proposed. Once established, setbacks would represent a high constraint as typically no development is permitted in a natural feature setback.

Provincial and local policies recommend the application of a 30 metre setback to fish habitat, Significant Woodlands, and wetlands, to mitigate indirect impacts to the feature and habitat functions. In some cases, this 30 metre distance can be reduced based on site specific circumstances or through the completion of an EIS. The area mapped as "Preliminary Development Area" on Figure 3 has considered our preliminary assessment of habitat functions and represents the best case scenario for the application of feature setbacks.

5.2.3 Habitat for Species at Risk

Based on the site assessment and preliminary analysis, the property provides candidate habitat for Threatened and Endangered species. While potential habitat exists, it will take appropriate survey effort to accurately identify habitat for these species. Survey effort is best determined when development is proposed to allow survey efforts to be focused on areas where there is perceived potential for



contraventions of the ESA if the activity were to proceed. Additional field efforts are therefore required to further assess and characterize habitat for Endangered species.

Habitat for Threatened and Endangered species can still allow for development opportunities. Development within the habitat often requires securing necessary permits and/or authorizations issued under the ESA. Obtaining an ESA permit would require actions on the part of the proponent including achieving overall net benefit to the species in question. This generally involves some form of compensation and habitat creation on or near the habitat loss. An alternative is to demonstrate avoidance of impacts to the species or their habitat which allows for a development project to move forward without requiring permits.

5.3 Low Constraint

The remaining property lands outside of the wetlands, woodlands and 30 m setbacks are illustrated on Figure 3 as Low natural heritage constraint to development.

5.4 Opportunities

The property is mapped in the NEP as Escarpment Recreation Area and by the County of Grey Official Plan as within Recreational Resort Settlement Area. Further, the property is depicted by the Town of The Blue Mountains Zoning By-law as Development (D), Wetland (WL), Holding (h1-lands adjacent to wetland zone) and Hazard (H). Proposed development and site alteration would be best focused on those activities permitted within the land use development designations associated with the property.

A Preliminary Development Area has been presented on Figure 3, where development could be focussed in consideration of the applicable natural heritage policies. For this property, development would be best focused along Mountain Road, outside of Significant Woodland, wetlands, direct fish habitat and the KNHF and KHF setbacks. This area of the property has been exposed to significant anthropogenic disturbance (*i.e.*, regular mowing, gardens, existing buildings, cultural woodlands, storage of landscape supplies, tree and woodland understory removal).

Based on the preliminary findings of the site visit, we expect that the exclusion of the WODM4 community from the Significant Woodland and could be justified through an EIS. In addition, we believe that an EIS could support the removal and/or the modification of the central SWDM2 Ash Swamp community (community 12 on Figure 2) provided that the plan does not result in overall loss of wetland habitat on the property. The Preliminary Development Area considers areas suitable for on-site restoration and enhancement which would allow for the removal of Other Wetlands and Significant Woodlands that are currently mapped within the Preliminary Development Area. The policies of the County and Town provide a mechanism by which development within Other Wetlands and Significant Woodlands can occur, provided that an EIS can demonstrate “no negative impact”.



The NEP states that modifications are not permitted within KNHF (*i.e.* Significant Woodlands) or KHF (*i.e.* fish habitat, wetlands), however, there does appear to be some room for interpretation of the policy within the Escarpment Recreation Area designation. We advise that early consultation with the Ministry of Natural Resources and Forestry (MNRF), which oversees the implementation of the Niagara Escarpment Plan, occur to ensure that the desired outcome is achievable.

6 RECOMMENDED ADDITIONAL STUDIES

Further studies would allow for better understanding and characterization of the natural heritage features and functions associated with the property. These studies will be valuable in the assessment and characterization of potential significant habitats and features and will allow for the best case in terms of determining and permitting the developable area moving forward. Studies expected to be required may include:

- Consultation with the Niagara Escarpment Commission to ensure that the proposal aligns with the policies outlined within the NEP, as they relate to the protection of KNHF and KHF;
- Classification of vegetation communities using protocols of the Ecological Land Classification (ELC) for Southern Ontario;
- Summer and fall vascular plant surveys to identify the potential for Species at Risk or rare plants;
- Breeding bird surveys to identify the potential for Species at Risk and SWH;
- A formal wetland identification and delineation exercise to confirm the extent of wetland habitats within the property limits, specifically within community number 12;
- Amphibian call surveys to identify potential for amphibian breeding significant wildlife habitat;
- Fish habitat and community assessment to evaluate the habitat value of the watercourses within the property;
- A Species at Risk habitat assessment for the property to determine if appropriate habitat is present and have potential to be utilized by Species at Risk; and
- Technical studies relating to the establishment of natural heritage feature boundaries and setbacks.

This is not intended to be an exhaustive list as additional natural heritage studies may required by review agencies at such time that a terms of reference is established for the EIS.

7 CLOSURE

As with any preliminary assessment there is no guarantee that the constraints identified herein will be mapped as such following future field investigations. It is anticipated that the developable areas will be refined through the completion of additional field surveys as outlined above and by other specialties.

We trust the information provided will be sufficient to meet your requirements for the property as you consider moving forward. Birks NHC staff are able to continue on the project and would be happy to



discuss the requirement for additional field surveys and reporting at your convenience. If you have any questions or require further information, please do not hesitate to contact the undersigned.

Yours truly,
Birks Natural Heritage Consultants, Inc.

Melissa Fuller
Ecologist



8 REFERENCES

- Birds Canada. 2023. Ontario Breeding Bird Atlas Square Resources. <https://www.birdsontario.org/>
- County of Grey. 2023. Recolour Grey. County of Grey Official Plan. Consolidated May 8, 2023. <https://www.grey.ca/government/land-use-planning/official-plan-and-policies>
- Department of Fisheries and Oceans Canada (DFO). 2023. Aquatic Species at Risk Map. <https://www.dfo-mpo.gc.ca/species-especies/sara-lep/map-carte/index-eng.html>
- Endangered Species Act*, Ontario. 2007. An Act to protect species at risk and to make related changes to other Acts. Bill 184 Chapter 6, Statutes of Ontario 2007.
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Plan 950 Part Lot 63 RP
16R2789 Part 1

Town of the Blue Mountains

Figure 1. Existing Conditions

 Property Limit (9.8 ha)
 120m Study Area

Fish Habitat
 Direct Habitat
 Indirect Habitat

Vegetation Communities
 1. Residential
 2. CUM: Cultural Meadow
 3. MEGM4: Fresh - Moist Graminoid Meadow
 4. WODM4: Dry - Fresh Deciduous Woodland
 5. FODM7-2: Fresh - Moist Green Ash - Hardwood Lowland Deciduous Forest
 6. FODM8-1: Fresh - Moist Poplar Forest

 7. FOMM10-2: Fresh - Moist White Spruce - Hardwood Mixed Forest
 9. WOCM: Coniferous Woodland
 8. FOCM5: Naturalized Coniferous Hedge-row
 10. SWDM4-5: Poplar Mineral Deciduous Swamp
 11. SWTM3-3: Slender Willow Mineral Deciduous Thicket Swamp
 12. SWDM2: Ash Mineral Deciduous Swamp



MAP DRAWING INFORMATION:
ORTHOPHOTOS PROVIDED BY: ESRI
MAP CREATED BY: HM
MAP CHECKED BY: MF
MAP PROJECTION: NAD 1983 UTM ZONE 17



 Meters
0 20 40 80 120 160

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PROJECT: 03-016-2023 STATUS: DRAFT DATE: 30/05/2023



Plan 950 Part Lot 63 RP
16R2789 Part 1

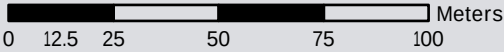
Town of the Blue Mountains

Figure 2. County and Township
Natural Heritage Constraints

- Property Limit (9.8 ha)
- Direct Habitat
- Indirect Habitat
- Grey County OP - Significant Woodlands
- Grey County OP - Other Wetlands



MAP DRAWING INFORMATION:
ORTHOPHOTOS PROVIDED BY: ESRI
MAP CREATED BY: HM
MAP CHECKED BY: MF
MAP PROJECTION: NAD 1983 UTM ZONE 17



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PROJECT: 03-016-2023 STATUS: DRAFT DATE: 30/05/2023



Plan 950 Part Lot 63 RP
16R2789 Part 1

Town of the Blue Mountains

Figure 3. Natural Heritage
Constraints

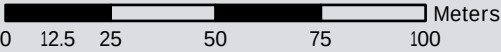
-  Preliminary Development Area (3.01 ha)
 120m Study Area

- Fish Habitat
 Direct Habitat
 Indirect Habitat

- Natural Heritage Constraints
 High (6.24 ha)
 Moderate (3.22 ha)
 Low (0.34 ha)



MAP DRAWING INFORMATION:
ORTHOPHOTOS PROVIDED BY: ESRI
MAP CREATED BY: HM
MAP CHECKED BY: MF
MAP PROJECTION: NAD 1983 UTM ZONE 17

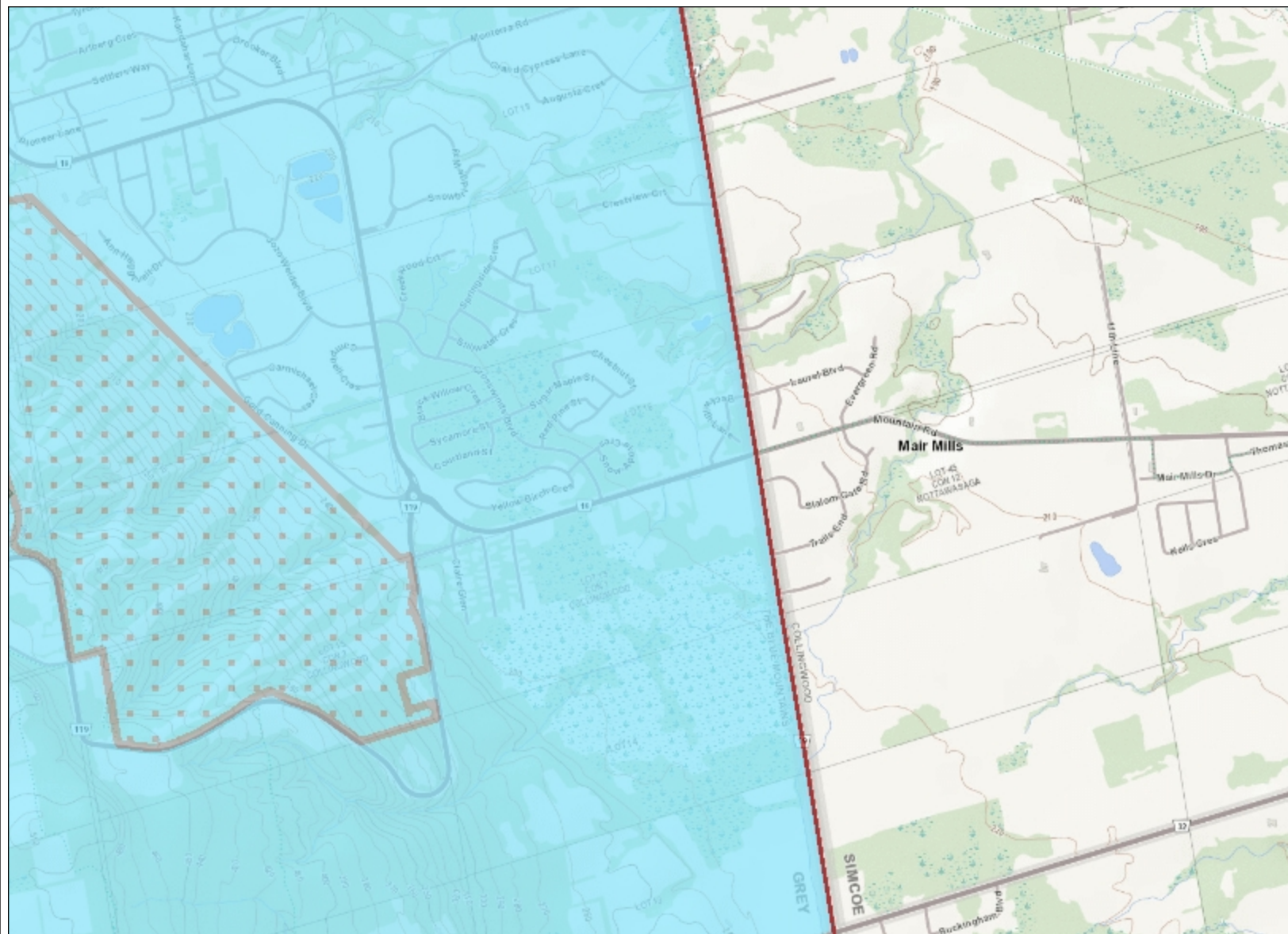


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PROJECT: 03-016-2023 STATUS: DRAFT DATE: 02/06/2023

APPENDIX A

Niagara Escarpment Plan Designation Map





- ### Legend
-  Assessment Parcel
 -  Niagara Escarpment Minor Urban Centre
 -  Niagara Escarpment Parks and Open Space System
 -  Niagara Escarpment Plan Special Policy Area
 -  Niagara Escarpment Plan Area
 -  Area of Development Control
- ### Niagara Escarpment Plan Designation
-  Escarpment Natural Area
 -  Escarpment Protection Area
 -  Escarpment Rural Area
 -  Escarpment Recreation Area
 -  Mineral Resource Extraction Area
 -  Urban Area

0 1.2 km

Projection: Web Mercator



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APPENDIX B

Nottawasaga Valley Conservation Authority Regulation Map

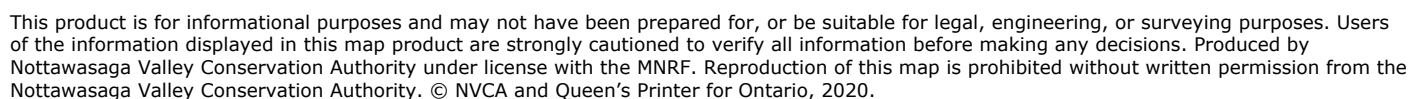




24-May-2023

Email the Regulations Department
permits@nvca.on.ca

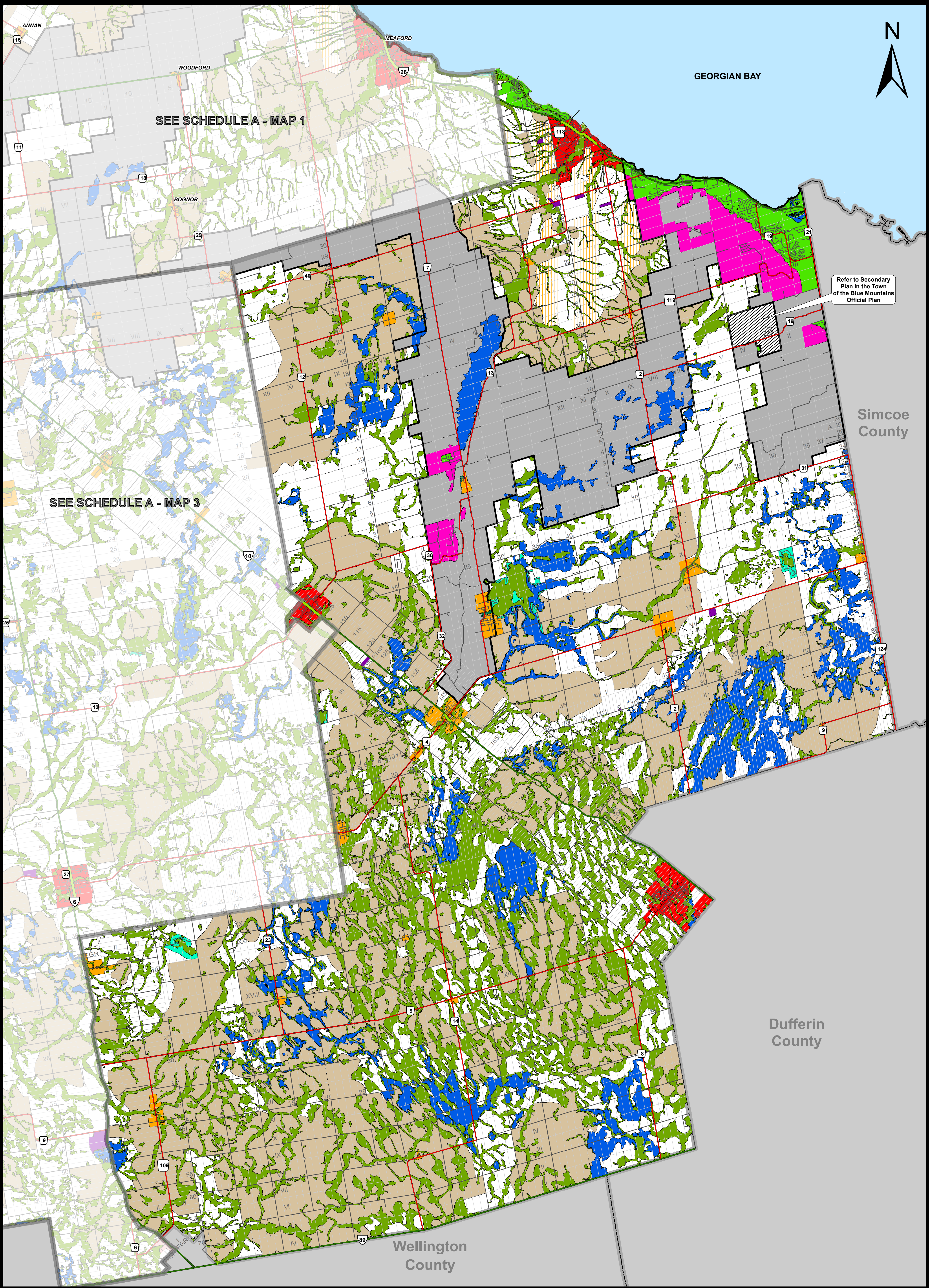
except between 12:00 p.m. - 1:00 p.m.



APPENDIX C

County of Grey Official Plan Maps





THE COUNTY OF GREY
OFFICIAL PLAN

**SCHEDULE A
Land Use Types**

MAP 2

LEGEND

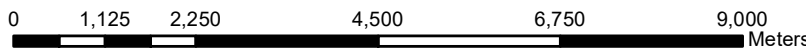
- Provincial Highway Connecting Link
- Provincial Highway
- County Road
- Local Road
- Seasonal Road
- Agricultural

- Special Agricultural
- Rural
- Primary Settlement Area *
- Secondary Settlement Area *
- Inland Lakes & Shoreline Settlement Area
- Recreational Resort Settlement Area
- Sunset Strip Settlement Area
- Industrial Business Park Settlement Area

- Space Extensive Industrial and Commercial
- Niagara Escarpment Plan Boundary **
- Niagara Escarpment Development Control Area
- Escarpment Natural Area
- Escarpment Recreation Area
- Hazard Lands
- Provincially Significant Wetlands and Significant Costal Lands

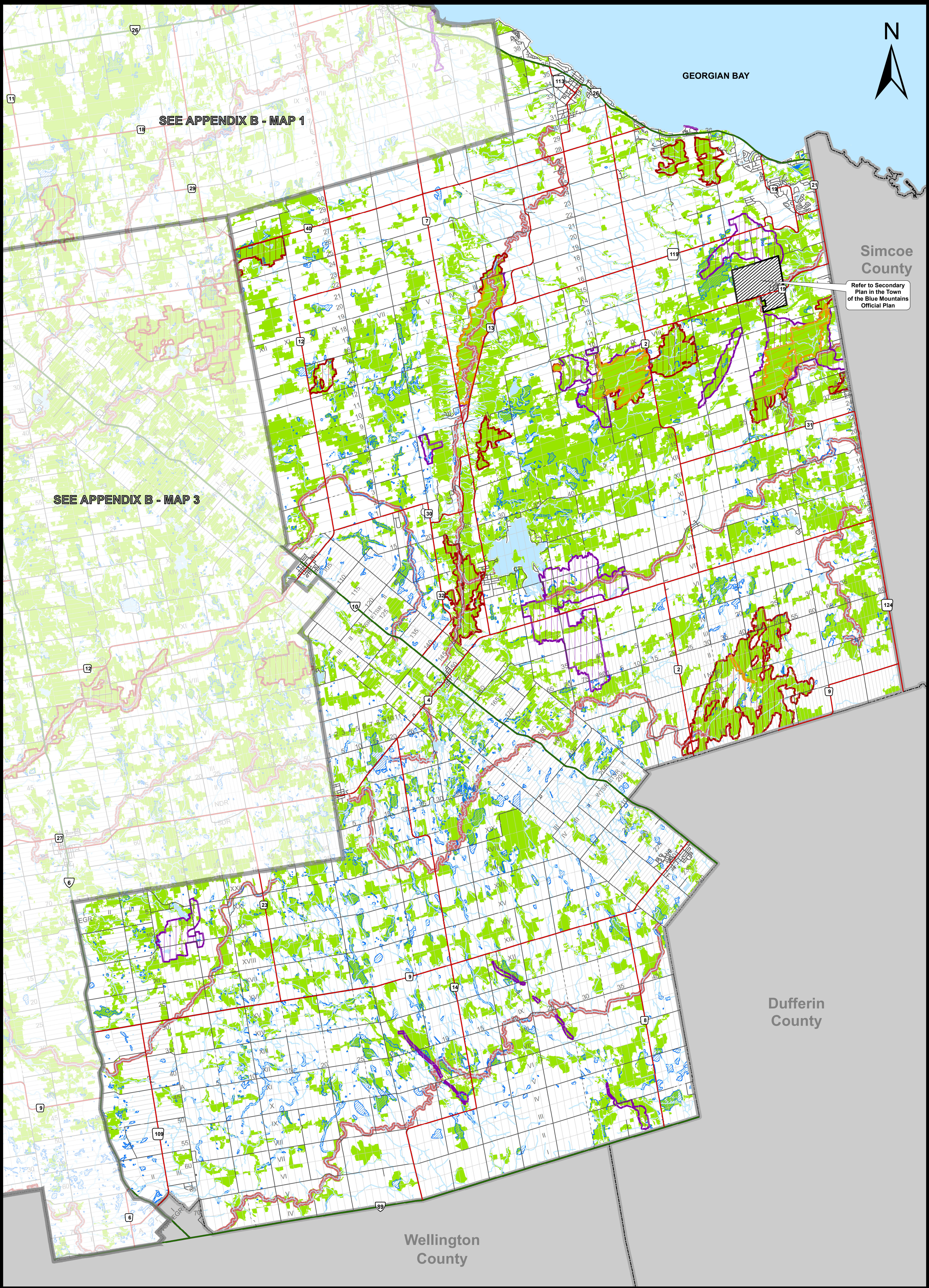
* refer to Secondary Schedules for further detail.
** certain settlement areas within the Niagara Escarpment Plan Boundary may be subject to Development Control.

SCALE 1:95,000



AUTHOR: Grey County Planning
FILE NAME: GR_OP_SchedA_Map2eastX36.mxd
CONSOLIDATION: May 1, 2023
INTERACTIVE MAP: geo.grey.ca
DOWNLOAD PDF: grey.ca/planning-development

This map is for illustrative purposes only. Do not rely on this map as being a precise indicator of routes, location of features or surveying purposes. This map may contain cartographical errors or omissions.



THE COUNTY OF GREY
OFFICIAL PLAN

**APPENDIX B
Constraint Mapping**

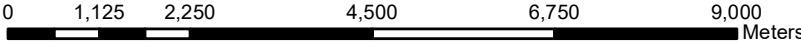
MAP 2

LEGEND

- Provincial Highway
- County Road
- Local Road
- Seasonal Road
- Stream / River
- Lakes
- Other Wetlands

- Significant Earth & Life ANSI
- Significant Earth ANSI
- Significant Life ANSI
- Significant Valleylands
- Significant Woodlands

SCALE 1:95,000



AUTHOR: Grey County Planning
FILE NAME: GR_OP_ApdxB_Map2eastX36.mxd
CONSOLIDATION: May 1, 2023
INTERACTIVE MAP: geo.grey.ca
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APPENDIX D

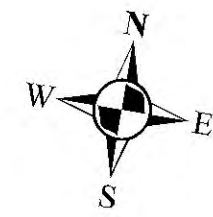
Town of The Blue Mountains Official Plan Constraints Map and Zoning



The Blue Mountains Constraint Mapping Appendix 1

Designations

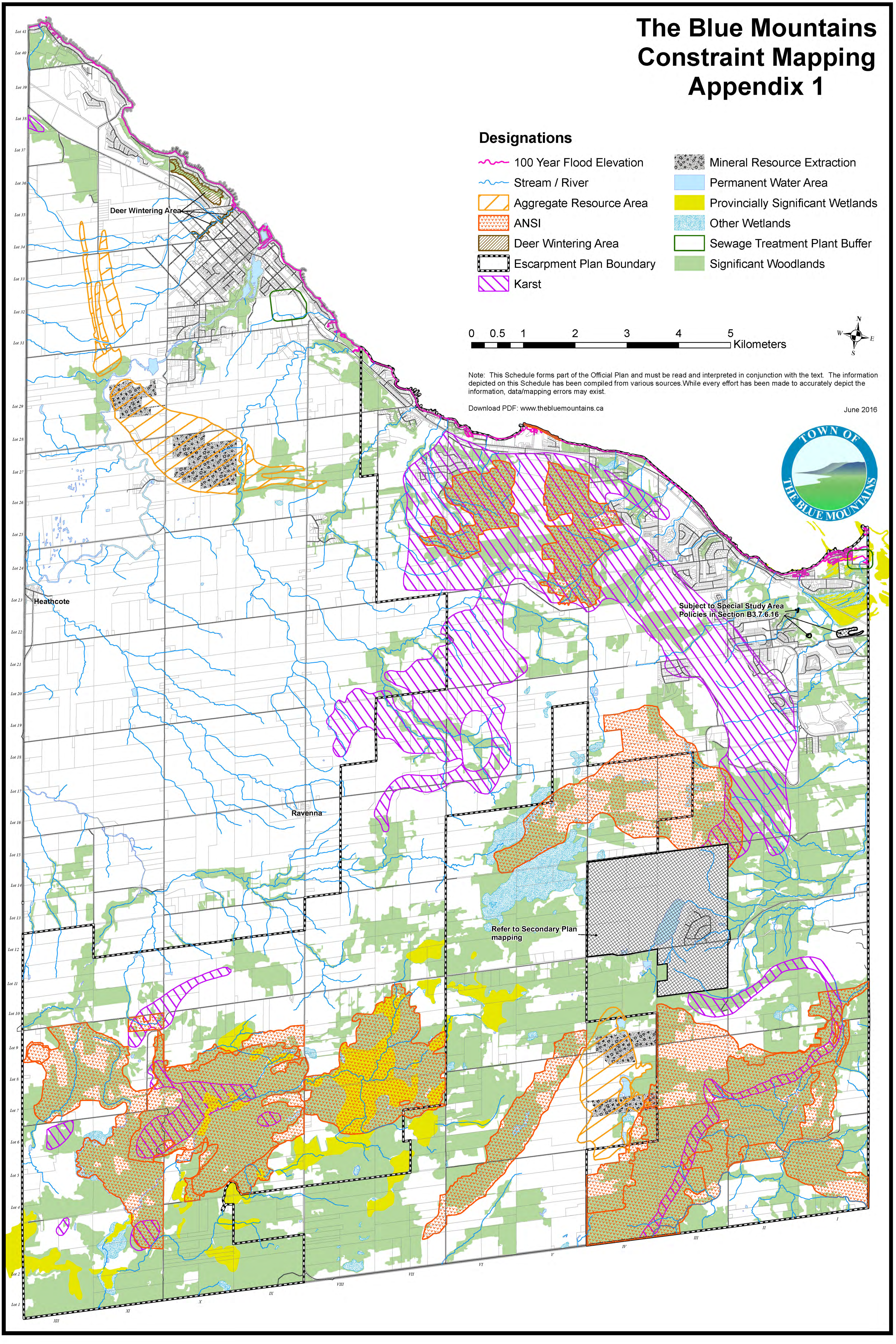
- | | |
|--------------------------|-----------------------------------|
| 100 Year Flood Elevation | Mineral Resource Extraction |
| Stream / River | Permanent Water Area |
| Aggregate Resource Area | Provincially Significant Wetlands |
| ANSI | Other Wetlands |
| Deer Wintering Area | Sewage Treatment Plant Buffer |
| Escarpment Plan Boundary | Significant Woodlands |
| Karst | |



Note: This Schedule forms part of the Official Plan and must be read and interpreted in conjunction with the text. The information depicted on this Schedule has been compiled from various sources. While every effort has been made to accurately depict the information, data/mapping errors may exist.

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June 2016





Legend

- Bruce St Marsh St Corridor
- h Provision Overlay
 - (h1) Wetland
 - (h2) ANSI
 - (h3) Landfill
 - (h5) STP
- Zoning Bylaw 2021 -70 STA
- Zoning Bylaw 2018-65 - Realign
 - See Section 1.5
 - Residential One (R1-1)
 - Residential One (R1-2)
 - Residential One (R1-3)
 - Residential One (R1-4)
 - Residential One (R1-5)
 - Residential Two (R2)
 - Residential Three (R3)
 - Resort Residential (RR)
 - Rural (R)
 - Village Commercial (C1)
 - General Commercial (C2)
 - Resort Commercial (C3)
 - Harbour Commercial (C4)
 - Blue Mountain Village Commercial (C5)
 - Craileith Village Commercial (C6)
 - Rural Commercial (C7)
 - Recreation One (REC1)
 - Recreation Two (REC2)
 - Recreation Three (REC3)
 - General Employment (M1)
 - Rural Employment (M2)
 - Extractive Industrial (M3)
 - Development (D)
 - Public Utilities (PU)
 - Institutional (I)
 - Open Space (OS)
 - Wetland (WI)

Notes

444 0 222 444 Meters

