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Environment Impact Assessment (EIA) Review

DATE: May 26, 2020

ERCA File Number: EIA-8-18

Municipality: Kingsville

Property: 1473 WELLINGTON UNION AVE, ARN: 371130000002700, PIN: 751440343

Significance: Significant Woodland, Significant Valleyland, Significant Wildlife Habitat, Species at Risk

Proposal: Martinho Consent

Recommendation: **Approve subject to full implementation of all Environmental Impact Assessment recommendations.**

The Environmental Impact Assessment (EIA) is to have been completed as per the following established Terms of Reference. The EIA shall include appropriate evaluations documenting the natural heritage significance and ecological functions of the feature, in accordance with established evaluation procedures and protocols, for the following categories of potential significance:

- Habitat of Endangered Species and Threatened Species, in consultation with the Ontario Ministry of Natural Resources and Forestry (MNRF) (jurisdiction since transferred over to the Ontario Ministry of Environment, Conservation & Parks (MECP)), in accordance with Policy 2.1.7 of the PPS.
- Significant Valleyland in accordance with Policy 2.1.5 of the PPS.
- Significant Woodland in accordance with Policy 2.1.5 of the PPS.
- Significant Wildlife Habitat in accordance with Policy 2.1.5 of the PPS.

The proponent is required to submit the associated fee payment (\$500.00) for our review. Please refer to the above referenced ERCA File Number when corresponding on this file, including the submission of any payment.

The following comments are provided pursuant to review of the following two submissions submitted by MTE Consultants Inc.:

- *Letter Scoped Environmental Impact Assessment (EIA) – 1473 Wellington Union Avenue, Part Lot 9, Concession 1 Eastern Division, Town of Kingsville, Ontario, dated March 4, 2020; and,*
- *September 27, 2019 ERCA Comments for the 1473 Wellington Union Avenue Environmental Impact Assessment (ERCA File Number: EIA 8-18) 1473 Wellington Union Avenue, Part Lot 9, Concession 1 Eastern Division, Town of Kingsville, Ontario, dated March 12, 2020*

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Review and Comment

a) Was the EIA carried out by qualified professionals in the field of ecology, terrestrial and/or aquatic biology, environmental planning, and/or other relevant sciences?

Yes the EIA was carried out by MTE Consultants Inc.

b) Did the EIA adequately identify and comment on existing significant natural features, linkages, and ecological functions of the site?

The EIA has adequately characterized the existing significant natural heritage features. The consultants have updated ELC mapping in accordance with the 2008 ELC vegetation community catalogue as well as provided a completed SOFIA spreadsheet detailing the results of the floral inventories. The proponent has received correspondence from the MNRF outlining recommendations in order to avoid contravention of the Ontario *Endangered Species Act*. In addition, the EIA has provided sufficient information relating to the historical activities on the subject property, relating to the removal of some vegetation associated with repair works conducted on the Albert Gunning Drain. ERCA and the Town of Kingsville are of the opinion that, because the tree removal was conducted under the permitted erosion control works, this would not constitute an invalidation of the EIA process for the purposes of reviewing the current application for consent.

The EIA has recognized the subject property as containing natural habitat which does meet the criteria for Habitat of Endangered and Threatened Species, Significant Woodland, Significant Wildlife Habitat, and Significant Wildlife Habitat.

c) Did the EIA explain the nature of the proposed development adequately enough to identify and assess any potential impacts of the proposed development plan on the existing significant natural feature(s)? Did the EIA describe all relevant current and proposed Provincial, and Official Plan and Zoning By-law land use designations, policies and permitted uses affecting the subject property?

Yes, the EIA has provided figures which show the proposed development in relation to the existing significant natural features. The EIA has also provided information relating to the current Official Plan designation and zoning, and permitting requirements under the applicable jurisdictions.

d) Did the EIA recommend and discuss actions which would eliminate, mitigate, or compensate (when appropriate) for any/all expected impacts consistent with accepted ecological, planning, engineering and resource management techniques, practices and principles?

The EIA has discussed various mitigation and compensation measures in order to address any potential impacts to the significant natural features or their ecological functions. These include recommendations from the MNRF relating to endangered and threatened species habitat, as well as best management practices prior to, during and after construction.



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Creation of the building envelope, including any servicing, will remove some trees and other vegetation on the subject property. Some of these trees had already been removed as a result of permitted activities associated with the repair of the existing drain. The EIA as recommended some compensatory planting of trees in compensation for the removal of trees associated with the building envelope. These plantings have been recommended in accordance with establish guidelines from the Toronto Region Conservation Authority, and will occur both on site and off site. The Planning Authority (the Town of Kingsville) has indicated that they are satisfied with the compensation measures and that the previously removed trees were sanctioned through a permitted activity.

e) Did the EIA process include agency consultation in order to obtain input, and did the EIA explain how agency concerns have been addressed?

Yes, the EIA process resulted in the issuance of a Terms of Reference by ERCA, as well as the receipt of correspondence from the MECP in regards to issues associated with the Ontario *Endangered Species Act*. The EIA has adequately addressed the outstanding concerns highlighted in the previous review issued by ERCA in September of 2019.

f) Are the recommendations in the EIA for the preferred proposed development able to satisfy all applicable legislation?

Full implementation of all EIA mitigation and compensation measures should satisfy all natural heritage policies. This includes the recommendations contained within the correspondence received from the MECP in relation to issues associated with the Ontario *Endangered Species Act*.

g) Did the EIA contain a summary list of recommendations?

A summary list of recommendations from the EIA is provided below:

Recommendation 1:

Prior to any construction activities, Sediment and Erosion Control (SEC) fencing that will also act as snake exclusion fencing should be installed along the entire development footprint boundary.

Recommendation 2:

The use of Curlex Net-free blanket (snake friendly) or riprap over geotextile fabric is recommended to ensure Eastern Foxsnake [END] and other herptiles do not get entangled. Avoid geotextile fencing that contains nylon mesh linings.

Recommendation 3:

The snake exclusion fencing should be installed in consultation with the specifications outlined in the Species at Risk Branch – Reptile and Amphibian Exclusion Fencing technical document (2013). This will ensure proper installation of the exclusion fencing to effectively protect SAR reptiles.



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Recommendation 4:

Any ground layer vegetation removal that is required within the development footprint area should be completed between June 1st and September 30th when Eastern Foxsnake [END] are active and most able to flee areas of disturbance.

Recommendation 5:

Site clearing (tree removal) and construction preparation will occur prior to April 1st or after September 1st to ensure that impacts from noise and disturbance on potential Eastern Wood-pewee [SC] nesting are avoided. This measure will also protect other nesting bird species protected under the federal *Migratory Birds Conventions Act* (MBCA). A qualified biologist will be contacted prior to any vegetation removal if there is potential to impact nesting birds.

Recommendation 6:

Once approved, the finalized landscape plan will be initiated as a condition of site plan approval. The details of the timing of the compensation works, the species to be planted, and the planting arrangement within the compensation areas detailed on the plan must be followed.

***Reviewer Comment:** There is no site plan approval process associated with the consent to sever process. The Planning Authority may wish to adopt the above recommendation as a condition of the consent.*

Recommendation 7:

The compensation areas will be monitored annually after planting has been completed until vegetation has become established (80% survival of woody materials is considered a success). This will ensure adequate survival of planted material and continue maintenance (weeding and removal of invasive species) to ensure proper establishment.

***Reviewer Comment:** The Planning Authority may wish to request the consultant submit a monitoring report, upon completion of annual monitoring.*

Additional Recommended Mitigation Measures for Indirect Impacts

The protection of Species at Risk and the natural heritage features listed above is most critical during construction activities. Mitigation and compensation measures for direct impacts to natural heritage features have been detailed. Below is a list of the recommended mitigation measures that should be followed to manage and avoid any indirect impacts to significant natural features and SAR during the different stages of property development.

Prior to Construction

Recommendation 8:

Prior to works on site, robust Sediment and Erosion Control (SEC) fencing should be installed along the development boundary limits. This fence will act as a barrier to keep



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construction equipment and spoil away from the top of slope and prevent sedimentation of natural heritage features. As discussed under Species at Risk, the SEC fencing will double as a snake exclusion measure bearing in mind specifications for the construction of this type of fencing.

Recommendation 9:

Sediment and erosion control fencing will be installed according to the Guidelines for Erosion and Sediment Control for Urban Construction Sites (OMNR, 1987) and the applicable standards established in the Ontario Provincial Standard Specification/Ontario Provincial Standard Drawings (OPSS/OPSD) documents.

Recommendation 10:

Soil stock piles should be established in locations on site where natural drainage is away from the Significant Woodland and Valleyland. If there is a possibility of stock pile slumping, these piles should be protected with robust sediment and erosion control fencing. The stockpile locations should be reviewed at detailed design.

During Construction

Recommendation 11:

The proposed development footprint of Property 1 must be regularly maintained until construction activities are completed.

Recommendation 12:

Daily inspection of sediment and erosion control/snake exclusion fencing should be completed to ensure proper installation and functionality.

Recommendation 13:

Construction and vegetation clearing equipment that is left idle for over 1 hour, or overnight, on the property between April 1st and November 30th must be surveyed for the presence of Eastern Foxsnake [END] before (re)ignition. This visual examination should include all lower components of the machinery, including operational extensions and running gear.

Post Construction

Recommendation 14:

Sediment and erosion control measures should not be removed until re-vegetation and soil stabilization has occurred to limit sedimentation of the municipal drain and woodland post-construction.



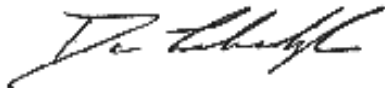
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h) What is the final recommendation on the current proposal based on the review of the EIA?

The development proposal may be approved subject to full implementation of all EIA recommendations and recommendations contained in correspondence from the MECP. These recommendations are summarized in g) above.

I would be pleased to discuss this review further at your convenience. If you should have any questions, or require any additional information please do not hesitate to contact me.

Yours Truly,



Dan Lebedyk
/dl