MINUTES OF M798/09-2019
NIAGARA ESCARPMENT COMMISSION
GEORGETOWN, ONTARIO
September 19, 2019


**Regrets:** None.


**Also Present:** K. Novacek, S. Cooper, Ministry of Natural Resources; D. Kappos, Counsel, Ministry of Natural Resources and Forestry; R. Patrick, President, C.O.N.E.

**Meeting called to order:** 9:30 a.m.

Chair Russ Powers presided.

**Land Acknowledgement**

The Chair read the Land Acknowledgment.

**Introductions:**

The Chair advised that staff from TVO were onsite to record part of the Commission meeting for an upcoming episode of Striking Balance.
APPROVAL OF MINUTES – M797/08-2019

M798R1/09-2019  Moved By: Mausberg
                   Seconded By: Gilhespy

“That the Commission approve the Commission Minutes of August 15, 2019 as amended.”

Motion Carried

Commissioner Haswell noted that she was not listed in the attendance but was present for the meeting.

CONFLICTS OF INTEREST – Declaration of Conflicts of Interest

Commissioner Robertson declared a conflict with the Biosphere Governance Project update.

MOTION FOR SPEAKERS

M798R2/09-2019  Moved By: Horner
                   Seconded By: Haswell

“That the persons representing the Applications listed on the Agenda be invited to address the Commission.”

Motion Carried

DISCUSSION AGENDA: A, B and C PACKAGES (Staff Reports, External submissions)

C2

STAFF REPORT
Proposed Changes to the Provincial Policy Statement 2014

BACKGROUND

At the August 15, 2019 meeting, the Commission directed staff to undertake a review of the Ministry of Municipal Affairs and Housing’s (MMAH) proposed changes to the Provincial Policy Statement (PPS), (July 2019 draft) and bring a more detailed analysis prior to the October 21, 2019 deadline to the next regular NEC meeting for review.
Staff has completed review of the proposed changes and possible impacts they may have on administering the Niagara Escarpment Plan (NEP). Draft responses to MMAH questionnaire were provided for the Commission’s review and endorsement.

While staff supports some of the proposed changes to the PPS, several changes would dilute administration of the NEP. Particular concern was noted with the following proposed changes:

**Preamble** - A new policy proposed in the Preamble to the PPS states that “municipal official plans are the most important vehicle for implementation of this Provincial Policy Statement and for achieving comprehensive, integrated and long-term planning. Official plans shall identify provincial interests and set out appropriate land use designations and policies”. Although the Preamble still states that the policies of the PPS “may be complemented by provincial plans”, NEC staff is concerned that the change in policy represents a shift away from land use planning at a provincial scale and could undermine the authority of the NEC and the NEP such that municipalities may decide without consulting the NEC with respect to whether a planning policy or development is in conflict with the NEP. Therefore, staff recommend that former policy 4.12 be retained in the PPS.

**Climate change** – A proposed new policy establishes a link between such development and “better adaptation and response to the impacts of a changing climate”.

“Impacts of a changing climate” is a new defined term proposed for the PPS as follows:

**Impacts of a changing climate**: means the potential for present and future consequences and opportunities from changes in weather patterns at local and regional levels including extreme weather events and increased climate variability.

Climate change is recognized as a risk in the NEC Business Plan and not an “opportunity”. Policies in the NEP 2017 respond to the risk by encouraging development which reduces energy consumption through such means as green infrastructure and low impact development to increase resilience to climate change.

NEC staff is concerned that the proposed PPS definition implies that climate change, widely accepted as present and increasing risk on a national and international scale, is only about something that might happen locally and results from changes in weather.

NEC staff recommend that a more widely accepted definition of climate change be used in the PPS, which captures the negative impacts and immediacy of the problem. For example, the Canadian Institute of Planners’ Policy on Climate Change Planning defines climate change as “any systematic change in climate elements sustained over several decades or longer”. 
Land Use Compatibility – The 2014 PPS emphasized the importance of separating sensitive land uses (e.g. residential uses) from major facilities (e.g. airports, manufacturing uses, transportation corridors, resource extraction activities). The proposed change to Part 1.2.6.1 would allow sensitive land uses if there were no reasonable alternative locations and potential impacts are mitigated. It is a fundamental principle of land use planning that incompatible uses should be separated for the general health, safety and welfare of the public. The policy of the NEP for Urban Areas supports this by stating that “development and growth should be limited to minimize land use conflicts” (NEP Part 1.6.8.4). While maximizing opportunities for infill and intensification in settlement areas is important, it should not outweigh the importance of having communities that are supportive of public health and safety. NEC staff recommend that the wording of Part 1.2.6.1 in the PPS 2014 remain unchanged.

Long Term Economic Prosperity and Minimum Distance Separation (MDS) – NEC staff support proposed policy revisions in the PPS that acknowledge the importance of protecting the viability of the agricultural system, including minimizing land use conflicts. NEC staff note however that a proposed revision to the Agriculture policies in Part 2.3.3.5 and 2.3.6.2 of the PPS do not appear to support the direction to minimize land use conflicts. Currently, the PPS requires that new land uses, and lot creation comply with the minimum distance separation (MDS) formulae in order to establish appropriate setbacks between farm operations, which may generate odours, and residential land uses. The proposed policy would limit the application of MDS just to prime agricultural areas and suggests mitigation of the impact of non-agricultural uses on agricultural operations, where feasible. NEC staff recommend that the current policy be maintained to avoid future conflicts with agricultural operations.

Mineral Aggregate Resources – The revised wording of Part 2.5.2.4 states that where the Aggregate Resources Act applies, processes under that Act shall address the depth of extraction of new or existing mineral aggregate operations. NEC staff is not clear on the intent of the policy, but it suggests that planning authorities such as the NEC who review applications for new licences would not have the opportunity to comment on the depth of extraction. This is an important consideration in the review of an aggregate application and necessary to determine the conformity of the application with NEP policy. While an applicant for a new pit or quarry in the NEP Area would still require an amendment to the NEP and a Development Permit, NEC staff does not support the proposed PPS policy in its current form and recommend that it be clarified as to how it might impact the NEC’s role and process under the NEPDA on aggregate matters.

Note:

- Nancy Mott, Senior Strategic Advisor, reviewed the staff report and answered questions.
Moved By: Haswell
Seconded By: Robertson

“That the Commission support the staff recommendations, include a cover letter with the Commission’s concerns about the proposed changes, and append the meeting’s Minutes to the Staff Report.”

Motion Carried

DISCUSSION:

The Commission noted grave concern with the possibility that municipal plans could override the NEP. Commissioner Horner noted that each municipality could interpret policies differently and lead to significant inconsistencies across the NEP. The Chair noted that the potential dilution of regulatory bodies is very concerning, and that the NEC has consistently regulated the NEP and NEPDA equitably and fairly since its inception.

The Commission noted that the PPS review is taking place 6 years earlier than the normal review period.

Commissioner Horner requested clarification regarding the mineral resource extraction location recommendation. Staff advised that the NEC’s historic position is for extraction to take place outside of the NE Plan Area.

It was noted that watershed management has been removed from the Conservation Authorities mandate. The Commission requested information on what body is now governing this; staff noted the situation is fluid and staff is tracking the situation.

The Commission requested further information on the term “managing wetlands” and asked if it means development is permitted within a wetland.

Commissioner Robertson request a definition of the term “market ready”. Staff confirmed that having the definition would assist in consistent policy interpretation.

The Commission requested that the language regarding minimum distance separation be stronger to minimize land use conflicts.

Commissioner McQueen asked if the proposed PPS changes regarding sewage, water and stormwater refer to new sewage treatment technologies, and asked if impact to existing wells will be minimized. He advised that Grey County is researching low impact housing options, e.g. pocket homes and requested that small dwelling size be added to the next policy meeting.
A1 and B1

Development Permit Application H/R/2018-2019/427
Dwayne Job
Part Lot 1, Concession 4, NS
City of Burlington, Halton Region

PROPOSAL:
To construct a 2 storey addition (attached garage and living space) to a single dwelling and to establish a new driveway access on an existing lot.

RECOMMENDATION:
That the application be refused for the following reasons:

REASONS FOR REFUSAL

1. The proposed development conflicts with the City of Burlington Official Plan.
2. The proposed development is not supported by City of Burlington staff.

Note:
- Michael Baran, Senior Planner, reviewed the staff report and answered questions.
- Dwayne Job, Applicant, presented and answered questions.

M798R4/09-2019
Moved By: Burton
Seconded By: Mausberg

“That the Commission defer the application to allow staff to bring back appropriate conditions for review by the Commission.”

Motion Carried

PRESENTATION

BIOSPHERE RESERVE GOVERNANCE PROJECT UPDATE

Staff provided an update on the July 30, 2019 and the upcoming September 24, 2019 NEBR workshops and Indigenous consultations. The next UNESCO Biosphere Reserve periodic review takes place in 2020.
The NEBR is working with the Niagara Escarpment Foundation, Terrapin Social Financing and Good Roots Consulting with other interested parties on the formation of the NEBR Transitional Leadership Committee (TLC). The TLC will become the decision-making authority when formed, and the NEC will then take on a more participatory role.

Note:

- John Stuart, Senior Strategic Advisor, presented and answered questions.
- David Ayotte, Director, answered questions.

M798R5/09-2019

Moved By: Horner
Seconded By: Mackenzie

“That the Commission receive the presentation.”

Motion Carried

DISCUSSION:

The Commission inquired about funding models and overlap with other Canadian Biosphere Reserves, Oak Ridges Moraine and the Greenbelt Foundation. Staff noted that there are many Canadian Biosphere Reserve groups with different types of expertise; the Director advised that it is anticipated that the NEC will have a secretariat role, not a leadership role.

C1

STAFF REPORT
Addition of the Pleasant View Survey to Development Control
Part Lots 23, 24, 25, 26, 27 and 28, Concession 1
Part Lots 22, 23, 24, 25, 26, 27, 28 and 29 Concession 2
(Former) Town of Dundas, City of Hamilton

BACKGROUND:

Plan Amendment PW 179, approved by the Minister of Natural Resources on October 28th, 2013, added the Pleasant View lands to the NEP. While the approval of the Amendment applied the policies of the NEP to the lands, the lands have remained outside of NEC Development Control and are subject to municipal zoning. This has caused some confusion and resulted in city building permits being issued in error. Accordingly, Hamilton City Council recently passed a motion directing City staff to work towards application of NEC Development Control over the subject lands.
There is an opportunity to pursue adding the lands to Development Control through the second phase of the Ontario Surveyor General (OSG) Development Control Regulation Plan Project. The project is part of an NEC staff initiative regarding changes to Regulation 826/90. It is currently within its first phase, entailing conversion of the Development Control boundary from a “metes-and-bounds” description to a map-based regulation.

The second phase of this project is intended to better align the NEC’s area of Development Control with the Niagara Escarpment Plan area, focusing on those areas that require the greatest protection. Adding the subject lands to the area of Development Control would allow NEC staff far greater ability to review proposed development, and ensure that development within the area does not conflict with the policies, objectives or purpose of the NEP. The lands would be included in the consultation part of Phase 2, prior to preparing final recommendations.

**RECOMMENDATION:**

That the Niagara Escarpment Commission support staff in pursuing the application of Development Control within the Pleasant View Survey Area.

**Note:**

- Jim Avram, Senior Planner, reviewed the staff report and answered questions.

**M798R6/09-2019**

Moved By: McKinlay  
Seconded By: Robertson

“That the Commission approve the staff recommendation.”

**Motion Carried**

**DISCUSSION:**

The Commission asked if having the subject lands in the area of Development Control would have prevented the City’s approval of Minor Variance Application DN/A-19:266. Staff advised that a development permit application would have been required and staff would have been involved much earlier in the process, and as no house had existed prior to the NEP, a Plan Amendment would be required to permit the change of use.

The Commission asked why the Pleasant View lands were not put into the Area of Development Control in 2012; staff advised that the Regulation change was put on hold during the Coordinated Review.

Commissioner Gilhespy noted that the lands have not changed significantly since the 1920’s and the Commission and staff have done an excellent job of protecting the environmentally sensitive lands.
The Chair thanked former Commissioner VanderBeek for her work on supporting the Plan Amendment recommendation.

The Director noted that it would be helpful to have an indication of the government’s position on moving Pleasant View lands in to Development Control prior to initiating public consultation. He advised that a memo regarding the Ontario Surveyor General (OSG) Development Control Regulation Plan Project digitized Regulation Plans was sent to the Ministry of Natural Resources and Forestry Policy Division for approval by the Minister.

**A1 and B1 continued:**

Development Permit Application H/R/2018-2019/427
Dwayne Job
Part Lot 1, Concession 4, NS
City of Burlington, Halton Region

PROPOSAL:

To construct a 2 storey addition (attached garage and living space) to a single dwelling and to establish a new driveway access on an existing lot.

M798R7/09-2019

Moved By: Horner
Seconded By: Burton

“That the Commission approve the application with Conditions of Approval, as the proposed works are unchanged from the previously approved application DP#10328/H/R/2011-2012/130.”

Motion Carried

DISCUSSION:

The Commission inquired if the city would appeal the application if it was approved; staff advised that the city had not appealed similar approvals in the past.
A3

Development Permit Application W/R/2015-2016/062
Mirjana Zlataric
Part Lot 38, Concession 1
City of Hamilton (former Town of Ancaster)

PROPOSAL:

To demolish an existing single dwelling and remove the existing driveway, and to construct a two storey ± 313.4 sq. m (±3,373 sq. ft.) single dwelling having a maximum height of ±10.3 m (±33.9 ft.) and establish a new driveway on a 0.14 ha (0.35 ac.) lot. The proposed dwelling would be serviced by an existing cistern and a new private sewage disposal system.

Note: The proposed dwelling has been reduced in size from an initial total floor area of approximately 465 sq. m (5,000 sq. ft.) and reduced slightly in height from an initial value of 10.7 m (35 ft.).

RECOMMENDATION:

That the proposal be approved, subject to the following conditions:

CONDITIONS OF APPROVAL W/R/2015-2016/062

1. Development shall occur in accordance with the Site Plan, Development Permit Application and Conditions as approved.

2. The Development Permit shall expire three years from its date of issuance unless the development has been completed in accordance with the Development Permit.

3. The landowner shall advise the Niagara Escarpment Commission in writing of the start and the completion date of the development. This notice shall be provided to the NEC 48 hours prior to the commencement of development, and within 14 days upon completion.

4. No site alteration of the existing contours of the property including the placement or stockpiling of fill on the property is permitted with the exception of that identified within the development envelope in accordance with the approved Site Plan.

5. No vegetation shall be cut or removed from the development envelope except for that identified within the development envelope in accordance with the approved Site Plan.
6. All disturbed areas shall be re-vegetated and stabilized, in accordance with the approved Site Plan, by the end of the first growing season following the completion of site grading and building construction. All trees, shrubs and nursery stock shall be native to Ontario. Only in extenuating circumstances will non-native species be considered. Native plant material should be sourced from local plant nurseries when available; bush dug plant material is not acceptable.

7. **Prior to the issuance of a Development Permit by the Niagara Escarpment Commission**, an accurate and detailed Final Site Plan shall be submitted to the Niagara Escarpment Commission, City of Hamilton (Hamilton Water and Development Engineering) and the Hamilton Conservation Authority for approval. The Plan shall include but not be limited to the following:
   a) All drawings submitted must be drawn to scale (bar scale shown), reference the application number and address of the proposal, be dated (revisions as well) and denote the relevant consultant;
   b) An accurate delineation of the approved development envelope with temporary fencing;
   c) The accurate location of all structures, sewage disposal system and driveway within the development envelope showing setbacks from the property lines, watercourse, top/bottom of slope, wooded areas, etc.;
   d) Extent of all disturbed areas;
   e) Extent and amount of fill removal or placement. Grading and drainage design including the areas of excavation and temporary or permanent fill placement. The type, quantity, quality and source location of any imported fill material must be accurately identified. Any fill material approved for importation under this Permit shall conform to the definition of “inert fill” per Ontario Regulation 347 and Table 1 of the Soil, Groundwater and Sediment Standards for use per Part XV.1 of the Environmental Protection Act, dated March 9, 2004;
   f) Distance between the proposed sewage disposal system and any groundwater well on the subject property or adjacent properties;
   g) Erosion and sediment control measures;
   h) Surveyed location and inventory of vegetation to be preserved and removed as well as all protection measures;
   i) Planting layout in accordance with Condition # 9. Areas of supplemental tree planting including quantities, species and size;
   j) Final building design to be consistent with the information and drawings provided with the application and any modifications required by the Niagara Escarpment Commission. This would include, but not be limited to height to the peak of roof, area/square meters, architectural treatment, lighting and fenestration.

The approved Final Site Plan shall form the Site Plan referred to in Condition #1 and development shall proceed in accordance with the details of the approved Final Site Plan.
8. **Prior to the issuance of a Development Permit by the Niagara Escarpment Commission, a Final Vegetation Preservation Plan** shall be prepared by a qualified person, for the approval of the Niagara Escarpment Commission and the City of Hamilton (Natural Heritage Planning). The Plan shall address vegetation preservation requirements and shall include but not be limited to a detailed inventory, assessment, protection and management measures in accordance with the standard practices of the implementing authority.

**Stipulations:**

a) Prior to commencement of any construction the protective fencing shall be installed and inspected by the consulting expert and a letter confirming the same provided to the Niagara Escarpment Commission.

b) Any vegetation noted for preservation and damaged from the construction process shall be reported and replaced; trees 150mm and over DBH (diameter breast height) shall be replaced on a per caliper basis. Replacement shall be to the satisfaction of the Niagara Escarpment Commission.

c) Subsequent to the completion of the works, including mitigation and management, a letter certifying the work has been completed in accordance with the approved plan shall be provided to the implementing authority by a qualified person.

The approved *Vegetation Preservation Plan* shall form part of the Site Plan referred to in Condition # 1 and development shall proceed in accordance with the details of the Final Vegetation Preservation Plan.

9. **Prior to the issuance of a Development Permit by the Niagara Escarpment Commission, a Final Landscape Plan** shall be prepared by a qualified person, for Niagara Escarpment Commission and City of Hamilton (Natural Heritage Planning) approval. The Plan shall address all planting, screening requirements associated with screening and mitigation as well as amenity areas and details.

**Stipulations:**

a) All new tree and shrub species shall be native to Ontario. Only in extenuating circumstances will non-native species be considered. Plant material shall be sourced from local plant nurseries; bush dug plant material is not acceptable.

b) Planting and the rehabilitation of all disturbed areas shall be completed, by the end first growing season following the completion of site grading, servicing and building construction to the satisfaction of the Niagara Escarpment Commission.

c) All plant material shall be guaranteed for 24 months following installation. All plant material found during this time to be dead or dying must be replaced with a size and species to the satisfaction of the Niagara Escarpment Commission.

d) Subsequent to the completion of the works a letter certifying the work has been completed in accordance with the approved plan shall be provided to the Niagara Escarpment Commission by a qualified person.
The approved Final Landscape Plan shall form part of the Site Plan referred to in Condition # 1 and development shall proceed in accordance with the details of the Final Landscape Plan.

10. **Prior to the issuance of a Development Permit by the Niagara Escarpment Commission**, the applicant shall submit for the approval of the Niagara Escarpment Commission and the City of Hamilton (Hamilton Water), **Final Construction Details** for the dwelling including exterior elevations, floor area, height above existing and proposed grades, number of stories, basement details and exterior lighting.

The Final Construction Details shall include information regarding the colour and general appearance of the external materials used on the façade of the proposed dwelling. Red or yellow brick, or stone material shall be used to ensure that the proposed dwelling is generally consistent with the appearance of other built form in the area.

Upon approval, these plans will be stamped “NEC Approved” and shall form part of the Development Permit referred to in Condition # 1.

11. **Prior to the issuance of a Development Permit by the Niagara Escarpment Commission**, the applicant shall submit Final Septic System Design Details to the satisfaction of Hamilton Water.

12. There shall be no potential occupancy within the basement of the dwelling (i.e. potential bedrooms unless revised floor plans are provided that indicate a maximum of two bedrooms between the first and second floors).

13. **Prior to the commencement of any Development**, the Applicant shall install and maintain non-woven erosion and sediment control fencing (exclusionary fencing) to enclose the development area identified on the approved Site Plan, in order to prevent sediment and deleterious substances from entering any adjacent woodlands, ponds or wetlands associated with the adjacent identified habitat. The fencing will also prevent any salamanders from entering the work area. The exclusionary fence shall be buried 10 – 20 cm to prevent salamanders from potentially burrowing underneath it, and the fencing height above ground shall be a minimum of 30 cm. The fencing shall be maintained in effective working order until all disturbed soils have been stabilized and site restoration has been completed. The landowner shall confirm the installation of the erosion/sediment control measures through the submission of photographs to the Niagara Escarpment Commission. It is the responsibility of the landowner to implement, monitor and maintain all erosion/sedimentation control structures until vegetative cover has been successfully established. Any deficiencies shall be addressed immediately.
14. The exclusionary fencing prescribed in Condition # 13 shall be installed between November 1st and March 1st, to prevent any salamanders from becoming trapped within the work area.

15. Tree removal shall not occur between April 1st and October 31st, unless a qualified biologist is present to determine the presence or probable absence of breeding migratory birds or endangered bats during their active season to ensure protection of breeding bird habitat and bat habitat. The applicant shall provide written confirmation from the qualified biologist, detailing the supervision of the tree removal if it is to be undertaken between April 1st and October 31st.

16. All waste materials generated from the demolition shall be completely removed from the property (e.g., taken to an approved landfill site, salvage/reclamation facility, re-used/recycled elsewhere) and not otherwise stored or buried on-site. All disturbed areas shall be immediately stabilized / rehabilitated as per the approved Site Plan (Condition # 1).

17. The proposed single dwelling shall not contain more than one dwelling unit.

18. This conditional approval expires one (1) year from the date of confirmation of the decision to approve the Development Permit application. Conditions # 7, 8, 9, 10 and 11 of this conditional approval shall be fulfilled before the expiry date.

**Advisory Notes:**

a) This Conditional Approval does not limit the need for, or the requirements of any other approval, licence or certificate under any statute (e.g., Ontario Building Code, Conservation Authorities Act, Endangered Species Act, etc.). The Niagara Escarpment Commission Development Permit is required prior to the issuance of any other applicable approval, licence or certificate.

b) The Niagara Escarpment Commission supports the protection of the night sky from excessive residential lighting and recommends that the applicant obtain information on shielding the night sky through the use and operation of appropriate lighting fixtures. This information is available at [www.darksky.org](http://www.darksky.org).

c) If Jefferson Salamander or any other species at risk are observed on the subject lands, the Niagara Escarpment Commission and the Ministry of the Environment, Conservation and Parks (MECP) should be notified immediately.

The MECP can be reached at SAROntario@ontario.ca.
d) The City of Hamilton advises that the subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbance, in addition to any areas impacted by the installation of services, such as water, electricity and ground-source heat pumps, and the proponent is advised to conduct an archaeological assessment prior to such impacts in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ministry of Tourism, Culture and Sport.

All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Tourism, Culture and Sport.

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ministry of Tourism, Culture and Sport (MTCS) should be notified immediately (416-314-7143). In the event that human remains are encountered during construction, the proponent should immediately contact both the MTCS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416-326-8392).

e) The City of Hamilton, Source Water Protection Department (Hamilton Water) recommends that property owners in the vicinity of 1095 Mineral Springs Road test their water regularly for bacteria and nitrate (at minimum) to ensure risks don’t increase as a result of the proposed construction.

Note:

- Jim Avram, Senior Planner, reviewed the staff report and answered questions.

M798R8/09-2019

Moved By: Robertson
Seconded By: Gilhespy

“That the Commission approve the staff recommendation.”

Motion Carried
DISCUSSION:

Commissioner Mackenzie asked if advance notice of an application is provided to neighbours. Staff advised that an orange notice is posted in a visible area when the application is circulated for agency comments. Staff also noted that if a member of the public requests to be notified, staff will provide the notice of decision to the individual. The manager noted that standing notification requests exist but are difficult to maintain and the possibility that notifying those not located within 120m of subject property lines can be missed inadvertently.

CONSENT AGENDA: G PACKAGE PACKAGE (Information items)

G1 Director Approvals and Dashboard for August 2019
G2 Appeals and Hearings Status Chart as of August 31, 2019
G3 Director’s Report for August 2019
G4 Plan Amendments Status Update as of August 31, 2019
G5 Information Report on draft Conditions of Approval for DPA N/F/2016-2017/381

M798R9/09-2019 Moved By: Gilhespy
Seconded By: Downey

“That the Commission receive the information reports.”

Motion Carried

Broke for lunch at 11:50 a.m.
Reconvened at 1:00 p.m.

M798R10/09-2019 Moved By: Robertson
Seconded By: Horner

“That the Commission move in-camera.”

Motion Carried
“That the Commission move out-of-camera.”

Motion Carried

A2

Withdrawal of Amendment Niagara Escarpment Plan Amendment PC 197 13 Pinchin Pit
Town of Caledon, Peel Region

The amendment proposed to amend the NEP to: 1) re-designate a portion of the former Pinchin Pit property (Lot 15; 44 hectares) from Mineral Resource Extraction Area to Escarpment Rural Area and Escarpment Natural Area; 2) add and designate a portion of the former Pinchin Pit property (Lots 13 and 14; 22 hectares) as Escarpment Rural Area, which is currently located outside the NEP area; and 3) add Public Lands to the Niagara Escarpment Parks and Open Space System (NEPOSS) overlay to a portion of the property.

A decision from the Minister is stalled because of complications with the proposed amendment. The addition of the northern Pinchin Pit lands to the NEP Area requires the removal of the lands from the Greenbelt Plan, which necessitates an amendment to Ontario Regulation 59/05: Designation of Greenbelt Area. The Ministry of Municipal Affairs and Housing would have to initiate this regulatory amendment. In addition, changes to the provincial plan boundaries (other than urban river valleys) were not made during the Co-ordinated Land Use Planning Review, completed in 2017. Therefore, the amendment has not progressed. Furthermore, several NEP policies regarding land use designations and NEPOSS were amended as a result of the Co-ordinated Review. Given these changes, the amendment is stale-dated and should be reassessed under new NEP policies.

CONCLUSION

Given that the amendment is now stale-dated, staff is recommending that the NEC withdraw the amendment. Since the amendment was initiated by the NEC, it is the NEC that must withdraw it. CVC staff has endorsed this plan of action, as noted in the attached letter. NEC and CVC staff will work together to determine how the amendment should be modified, and when to proceed with re-submission.
RECOMMENDATIONS

1. That the Commission approve the withdrawal of proposed Niagara Escarpment Plan Amendment PC 197 13, and

2. That the Chair write to the Minister of Natural Resources and Forestry to inform the Minister that Amendment PC 197 13 has been withdrawn.

Note:

- Debbie Ramsay, Manager, reviewed the staff report and answered questions.
- Eric Baldin, Manager, Land Planning and Management, Credit Valley Conservation, presented and answered questions.

M798R12/09-2019

Moved By: Horner
Seconded By: Gilhespy

“That the Commission approve the staff recommendation.”

Motion Carried

DISCUSSION:

The Commission inquired of the long-term intent for the property and if the property is also part of the Greenbelt Plan Area.

A5

STAFF REPORT
DEVELOPMENT PERMIT APPLICATION S/F/2016-2017/9239
Duntroon Highlands Resort c/o Grant Sampson
1226 10th Concession
Lots 22 and 23, Concession 11
Township of Clearview, County of Simcoe

PROPOSAL:

To expand the existing online pond used for irrigation on the Duntroon Highlands Resort Golf Course by:

- removing approximately 1,500 cu m of cut material to be excavated and moved off site that will result in expanding the capacity of the pond by over 400,000 US gallons
- remove a portion of the existing cart path
- remove existing culvert to pond
- construct a ledgerock threshold flow structure at the intake of the tributary of Batteaux Creek (to regulate flow in accordance with PTTW)
- construct an in-stream inlet catch basin
- install a smooth wall bypass pipe (162 m long) south of the pond,
- install round river stone by hand at the end of the existing overflow channel,
- construct a concrete headwall where the overflow enters the natural channel
- install an upstream and downstream monitoring station

Note: The location and details of the silt fence, dewatering pump, coffer dam, limit of disturbance and proposed construction access have been provided.

RECOMMENDATION:

That the application be approved with the following Conditions of Approval:

CONDITIONS of APPROVAL

1. Development shall occur in accordance with the Site Plan (Drawings IN1, ES1, G1, and P1 prepared by R.J. Burnside 7 Associates Limited, as revised July 23, 2019), Development Permit Application and Conditions as approved.

2. The Development Permit shall expire three five years from its date of issuance unless the development has been completed in accordance with the Development Permit.

3. The landowner shall advise the Niagara Escarpment Commission in writing of the start and the completion date of the development. This notice shall be provided to the NEC 48 hours prior to the commencement of development, and within 14 days upon completion.

4. No site alteration of the existing contours of the property including the placement or stockpiling of fill on the property is permitted with the exception of that identified within the development envelope in accordance with the approved Site Plan.

5. No vegetation shall be cut or removed from the development envelope except for that identified within the development envelope in accordance with the approved Site Plan.
6. All disturbed areas shall be re-vegetated and stabilized, in accordance with the approved Site Plan, by the end of the first growing season following the completion of site grading and building construction. All trees, shrubs and nursery stock shall be native to Ontario. Only in extenuating circumstances will non-native species be considered. Native plant material should be sourced from local plant nurseries when available; bush dug plant material is not acceptable.

7. In-water works shall not occur between March 31 and July 1 inclusive, of any given year.

Notes:

a) This Development Permit does not limit the need for or the requirements of any other applicable approval, licence or certificate under any statute (e.g., Ontario Building Code, Conservation Authorities Act, Endangered Species Act, etc.). The Niagara Escarpment Commission Development Permit is required prior to the issuance of any other applicable approval, licence or certificate.

“That the application be deferred to the next Commission meeting, at the request of the applicant.”

Motion Carried

A4

STAFF REPORT
DEVELOPMENT PERMIT APPLICATION G/C/2018-2019/9247
Blanka Balogh
824323 Massie Road
Part Lot 3, Concession 9 EGR,
Township of Chatsworth, County of Grey

PROPOSAL:

To establish a dog kennel (on-farm diversified use) for the training and occasional breeding of working dogs (e.g., livestock, hunting, guardian) within a 130 m² (1,400 ft²) portion of an existing 312.1 m² (3,360 ft²) agricultural accessory building, plus an attached 369 m² (3,976 ft²) outdoor fenced dog run area, on a 38.2 ha (94.38 ac) existing lot. The kennel will accommodate 6 - 7 dogs on a regular basis with the potential housing of up to 10 - 12 dogs (e.g., puppies held back for training).
RECOMMENDATION:

That the application be **approved** with the following Conditions of Approval:

**CONDITIONS of APPROVAL**

<table>
<thead>
<tr>
<th>Conditions of Approval</th>
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<tr>
<td>1. Development shall occur in accordance with the Site Plan, Development Permit Application and Conditions as approved.</td>
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<td>2. The Development Permit shall expire three years from its date of issuance unless the development has been completed in accordance with the Development Permit.</td>
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<td>3. The landowner shall advise the Niagara Escarpment Commission in writing of the start and the completion date of the development. This notice shall be provided to the NEC 48 hours prior to the commencement of development, and within 14 days upon completion.</td>
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| 4. Prior to the issuance of a Development Permit by the Niagara Escarpment Commission, an accurate and detailed Final Site Plan shall be submitted for Niagara Escarpment Commission approval. The final site plan shall include, but not be limited to:  
  a) The location of all buildings, structures, and servicing on the lot;  
  b) Parking area to be used by the dog kennel;  
  c) The type, size, and number of trees to be planted to provide vegetative screening between the kennel facility and the road. |
| The approved Final Site Plan shall form the Site Plan referred to in Condition # 1 and development shall proceed in accordance with the approved Final Site Plan. |
| 5. The existing agricultural accessory building shall be used for the purposes of a dog kennel / agricultural storage building only and shall not be used for human habitation (i.e., living space), as a dwelling or apartment unit, or for industrial, institutional, or livestock purposes. |
| 6. The existing agricultural accessory building to be partially converted into a dog kennel training and breeding facility shall be limited to accommodating a maximum of twelve (12) dogs. |
| 7. Should the dog kennel use be discontinued, the building and any outdoor areas devoted to the kennel use shall be converted back to an agricultural use within sixty (60) days of the kennel business being discontinued, to the satisfaction of the Niagara Escarpment Commission. |
| 8. This conditional approval expires **one (1) year** from the date of confirmation of the decision to approve the Development Permit application. Condition # 4 of this conditional approval shall be fulfilled **before** the expiry date. |
Advisory Notes:

a) This Conditional Approval does not limit the need for or the requirements of any other applicable approval, licence, or certificate under any statute (e.g., Ontario Building Code, Conservation Authorities Act, Endangered Species Act, etc.). The Niagara Escarpment Commission Development Permit is required prior to the issuance of any other applicable approval, licence or certificate.

b) The Township of Chatsworth has advised that By-law Number 2019-32, being a by-law to provide for the regulation, restriction, keeping and licensing of dogs and kennels and the prohibition of cruelty to domestic animals in the Township of Chatsworth is in effect. The applicant will require a kennel license from the Township of Chatsworth prior to establishing the dog kennel.

Note:

- Brandon Henderson, Senior Planner, reviewed the staff report and answered questions.
- Veronica Balogh and Blanka Balogh, Applicants, were present answered questions.

**M798R14/09-2019**

Moved By: Robertson  
Seconded By: McQueen

“That the Commission approve the staff recommendation.”

Motion Carried

**DISCUSSION:**

The Commission asked if the number of dogs can be limited and requested confirmation of the distance between the proposed kennel and the dwelling. They also inquired if the; and owners can be instructed the convert the kennel structure back to it’s original use in the future.

**CHAIR’S ITEMS**

The Chair noted that his term expires in October. Policy and Commission meetings are scheduled for November 20 and 21 and are dependant on a new Chair being appointed as well as Commissioner appointments to meet the required quorum. He advised that 5 Commissioner appointments end before November 20, 2019, and thanked MNRF staff for their work on the appointment process. Commissioner McKinlay thanked the Chair for his leadership and mentorship.

The Chair congratulated Commissioner Mackenzie on receiving a Latornell Leadership award.
NEW BUSINESS

None.

ADJOURNMENT

M798R15/09-2019

“\textit{That this meeting be adjourned.}”

\textit{Motion Carried}

\textbf{Time of Adjournment:} 2:10 p.m.

\underline{R.F. (Russ) Powers}
Chair