MINUTES OF M797/08-2019
NIAGARA ESCARPMENT COMMISSION
GEORGETOWN, ONTARIO
August 15, 2019


Regrets: None


Also Present: J. Gaweda, Ministry of Natural Resources; R. Patrick, President, C.O.N.E.

Meeting called to order: 9:35 a.m.

Chair Russ Powers presided.

Land Acknowledgement

The Chair read the Land Acknowledgment.

Introductions:

The Chair introduced the new Southern Team Planner and Central Team Senior Planner to the Commission.
APPROVAL OF MINUTES – M796/06-2019

M797R1/08-2019

Moved By: Pim
Seconded By: Downey

“That the Commission approve the Commission Minutes of June 20, 2019 as amended.”

Motion Carried

DISCUSSION:

Commissioner Pim noted that “Niagara Escarpment Biosphere Reserve” should read “Canadian Biosphere Association” on page 22

CONFLICTS OF INTEREST – Declaration of Conflicts of Interest

None declared.

MOTION FOR SPEAKERS

M797R2/08-2019

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)

A3

DEVELOPMENT PERMIT APPLICATION N/F/2016-2017/381
Mike D’Antini
288 Warner Road
Part Lot 139
Niagara-on-the-Lake, Regional Municipality of Niagara
PROPOSAL:

To import ± 20,000 cu m (± 706,293 cu ft) or ± 2,000 truckloads of fill to establish a vineyard, on an 14.7 ha (36.3 ac) agricultural lot that supports a single dwelling with municipal water and private septic services, and an accessory structure (barn).

RECOMMENDATION:

That the application be refused for the following reasons:

Reasons for Refusal N/A/2016-2017/381

1. The proposed development conflicts with Objectives 4 and 5, Part 1.4, and Part 2.8 of the Niagara Escarpment Plan 2017.

2. Staff are not satisfied that the proposed development meets Section 2.3 of the Provincial Policy Statement.

Note:

-Amaraine Laven, Senior Planner, reviewed the staff report and answered questions.
-Mike D’Antini and Laura D’Antini-Kozloski, Applicants, presented and answered questions.

M797R3/08-2019 Moved By: Mausberg
Seconded By: Downey

“That the Commission approve the application in principle, with staff to bring back appropriate draft Conditions of Approval.”

At the request of the Chair, the vote was recorded:

For the Motion: Against the Motion:
Downey Mackenzie
Gilhespy Pim
Haswell
Horner
Mausberg
Robertson

Motion Carried

DISCUSSION:

The Commission struggled with upholding the NEP while supporting the intent of the applicants to alter the landscape for a future vineyard. Commissioner Horner noted that the applicants plan to protect the specialty crop lands for farming.
The Commission expressed concern regarding the amount of fill proposed, the soil quality, the truck volume required to transport the fill, and if alternatives such as a cut and fill had been evaluated.

The Commission requested additional information on how “large scale” is determined without qualifying parameters. Staff advised that the scale was evaluated with the Niagara Escarpment Plan, the geographical extent of the subject property and the proposed intensification of use.

The Commission was concerned about how the fill importation volume and quality would be regulated. Further information regarding the fill quality and quantity was requested when the matter returns to the Commission.

A1

DEVELOPMENT PERMIT APPLICATION W/F/2018-2019/421
Nawab Khan
971 Ridge Road
Part Lot 10, Concession 3 SLT SC
City of Hamilton (former City of Stoney Creek)

PROPOSAL:

To import approximately 10,000 cu. m of Table 1 soil and undertake grading to improve the agricultural capability of a 3.6 ha (9 ac.) property that supports a residence.

RECOMMENDATION:

That the application be refused for the following reasons:

Reasons for Refusal W/F/2018-2019/421

1. The proposed development is not listed as a permitted use within the Escarpment Protection Area and conflicts with Objective # 6 for the Escarpment Protection Area designation.

2. The proposed development conflicts with Part 2.8.3 Niagara Escarpment Plan.

3. NEC staff are not satisfied that the proposal is consistent with Section 2.3 of the PPS.

Note:

-Jim Avram, Senior Planner, reviewed the staff report and answered questions.
-Valerie Czorny, Neighbour, presented and answered questions.
-Prem Tewari, Agent, presented and answered questions.
M797R4/08-2019

Moved By: Mackenzie
Seconded By: Haswell

“That the Commission accept the staff recommendation.”

Motion Carried

DISCUSSION:

The Commission asked if the land had been farmed in the past, and requested additional details on type crops to be grown, as well as soil source and quality. The applicant confirmed that the land had produced grapes and fruit trees, produce was still on the land but is not actively managed at this time. The Commission noted that the application lacked detail regarding type of crops to be grown and suggested that the applicant reapply when more details about the land management plan, soil sources and how use of only topsoil would achieve the agricultural plans for the site.

STAFF REPORT

Minor Variance Application DN/A-19:266
10 Newman Road
Part Lots 27 & 28 Concession 2
City of Hamilton (former Town of Dundas)

BACKGROUND:

NEC staff are aware of City of Hamilton Minor Variance Application DN/A-19:266 which seeks relief from the provisions of applicable Zoning By-law 3581-86 to permit the construction of a single dwelling on a lot having an area of 4.07 hectares. The subject property is located in the Pleasant View Survey Lands, which require a minimum 10-hectare lot size.

The Minor Variance Application, if approved, would facilitate development that conflicts with the Niagara Escarpment Plan (NEP) special provisions for the Pleasant View Survey Lands (Part 2.2.21).

NEC staff are aware that the City of Hamilton Planning Department issued an approval of a Site Plan Application, likely early in 2019. A Building Permit was subsequently issued to authorize the construction of the single dwelling on the property. Upon being made aware of the issue NEC staff sent a letter to the Manager of Development Planning, Policy Planning and the Building Department, advising that the development conflicts with the Niagara Escarpment Plan. The Building Permit was subsequently revoked, though construction had commenced.
Upon being made aware of the Minor Variance Application that had been submitted, NEC staff sent a subsequent letter to the Committee of Adjustment, stating opposition to the approval of the application.

RECOMMENDATION:

1. That the Commission endorse staff’s letter to the City of Hamilton, Committee of Adjustment dated August 2\textsuperscript{nd}, 2019 regarding the Minor Variance. The letter is attached as Appendix C; and

2. That the Commission direct staff to file an appeal if the Minor Variance Application is approved by the City of Hamilton Committee of Adjustment.

Note:

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

\textbf{M797R5/08-2019}  
\textit{Moved By:}  Robertson  
\textit{Seconded By:}  Mausberg  

"That the Commission accept the staff recommendations.”  
\textit{Motion Carried}

DISCUSSION:

The Commission asked what will happen to the partially constructed dwelling. Staff advised that all parties are in active discussions. The Chair advised that the City has requested a follow up meeting with NEC staff. Staff advised that improvements are being made to the mapping on the NEC website, which will include a distinct layer to identify the Pleasant View area. The Commission encouraged ongoing staff outreach with the City.

\textbf{A4}  
DEVELOPMENT PERMIT APPLICATION B/R/2017-2018/9228  
Kenneth Robert Campbell  
Civic address not assigned  
Part of Lot 9, Concession 14 EBR  
Municipality of Northern Bruce Peninsula (Eastnor), County of Bruce

PROPOSAL:

To undertake the following on a 0.17 ha (0.43 ac) existing lot; Part 1 & 2 of 3R728:

- construct a 2 storey, 132.4 m\textsuperscript{2} (1423 sq ft) dwelling, having a maximum height of 7.7 m (26.25 ft);
• install roof-mounted solar collectors;
• install a private sewage disposal system;
• construct a 55 m2 (592 sq ft) cantilevered deck;
• construct a 1 storey, 44.6 m2 (480 sq ft) accessory building (detached garage) having a maximum height of 6.1 m (20 ft);
• install above ground hydro from Georgian Drive to the northern boundary of Lot 8, Concession 14 EBR and then underground to service the proposed dwelling;
• construct a private driveway 6.1 m (20 ft) wide by approximately 450 m (1476.4 ft) long from the terminus of Georgian Drive across a lot owned by Warren Stewart in which the applicant will purchase an interest and following what is described as an existing access road to the subject lot;
• install a gated entrance near the frontage on Georgian Drive.

RECOMMENDATION:

That the application be refused for the following reasons:

Reasons for Refusal

1. The proposal conflicts with the Purpose of the Niagara Escarpment Plan (2017).
2. The proposal conflicts with Objectives 1, 5 & 7 of the Niagara Escarpment Plan (2017).
3. The proposal conflicts with Objective 3 of the Escarpment Natural Area designation.
4. Insufficient information has been provided to properly assess Objective 2 of the Niagara Escarpment plan (2017)
5. Insufficient information has been provided to properly assess Objective 2 of the Escarpment natural Area designation.
6. The proposal conflicts with the County of Bruce Official plan.
7. Multiple objecting agencies.
8. The proposal is opposed by the Ontario Heritage Trust and Chippewas of Nawash Unceded First Nation due to the high significance of the subject property and surrounding area in terms of Indigenous cultural heritage.

M797R6/08-2019

Moved By: Downey
Seconded By: Mausberg

“That the application be deferred at the Applicant’s request.”

Motion Carried
DEVELOPMENT PERMIT APPLICATION W/R/2019-2020/023

Richard Wyatt
27 South Drive
Part Lot 24 Concession 3 FW FLM RP; 62R5629 PART 1
City of Hamilton (former Town of Flamborough)

PROPOSAL:

To create a new ±0.36 ha (±0.88 ac.) lot to support future residential development from an existing ±0.71 ha (±1.75 ac.) lot.

Notes: 1. The existing lot has a frontage of ±70.4 m and a dept of ±101.2 m.
   2. The proposal would result in both the severed and retained portion having a frontage of ±35.4 m and a depth of ±101.2 m.

RECOMMENDATION:

That the proposal be refused for the following reasons:

Reasons for Refusal

1. The proposed severance conflicts with the NEP lot creation policies for the Escarpment Protection Area (Part 1.4.4.1).
2. The proposed severance conflicts with the following NEP Development Criteria policies: Parts 2.4.2, 2.4.4, 2.4.5 a), and 2.6.9.
3. The proposed severance does not meet the objectives of the Rural Hamilton Official Plan.
4. The proposed severance is inconsistent with Sections 1.1.4 (Rural Areas) and 1.1.5 (Rural Lands) of the Provincial Policy Statement, 2014.

Note:

-Jim Avram, Senior Planner, reviewed the staff report and answered questions.
-Richard Wyatt, Applicant, presented and answered questions.

Moved By: Pim
Seconded By: Robertson

“That the accept the staff recommendation.”

Motion Carried
DISCUSSION:

The Commission asked if the applicant had intended to sever the property when it was purchased and if he had known the property was in the Niagara Escarpment Plan prior to purchasing the lot; the land owner indicated that he was unaware of the NEP boundary, and had not intended to sever the property at the time of purchase. The Commission acknowledged the proximity of Urban Area, but noted the need to uphold the boundary.

Broke for lunch: 12:30 p.m.

Reconvened 1:30 p.m.

A9

DEVELOPMENT PERMIT APPLICATION B/R/2018-2019/9208
Brent Greig
Civic address not assigned
Part Lot 29, Concession 5 EBR,
Municipality of Northern Bruce Peninsula (Eastnor), County of Bruce

PROPOSAL:

To undertake the following on a 20 ha (50 ac) proposed lot, to be severed from a 56.9 ha (140.52 ac) existing lot:

- construct a 1.5 storey dwelling with attached garage, sized approximately ± 239.3 sq m (2,576 sq ft), having a maximum height of ± 7.62 m (25 ft);
- install a private sewage disposal system; and,
- construct a driveway.

Note: The lands (severed and retained) are to continue to be used for agriculture.

RECOMMENDATION:

That the application be refused for the following reasons:

Reasons for Refusal B/R/2018-2019/9208

1. The proposal does not comply with the lot creation policies of the NEP.

2. The proposal does not comply with the Agricultural policies of the PPS.

3. The proposed lot creation does not comply with the policies of the Bruce County Official Plan.
Note:

-Judy Rhodes-Munk, Senior Planner, reviewed the staff report and answered questions.

Moved By: Mausberg
Seconded By: Pim

“That the accept the staff recommendation.”

Motion Carried

A5

DEVELOPMENT PERMIT APPLICATION G/R/2018-2019/9097
Armand Pede
158 Osprey Heights
Part Lot 25, Concession A,
Municipality of Grey Highlands (Osprey), County of Grey

PROPOSAL:

To construct a 2 storey, ± 223 sq m (2,400 sq ft) dwelling, having a maximum height to peak of ± 9 m (30 ft), install a private sewage disposal system and install a shared driveway on a ± 1.0 ha (2.5 ac) proposed lot, to be severed from a 1.9 ha (4.8 ac) existing lot. An existing dwelling, sewage disposal system, driveway, detached garage, and observatory will be located on the 0.9 ha (2.3 ac) retained lot.

RECOMMENDATION:

That the application be refused for the following reasons:

REASONS FOR REFUSAL G/R/2018-2019/9097

1. The proposed development does not conform to the lot creation policies within Part 1.4.4 of the Escarpment Protection Area designation.

2. The proposal is contrary to the Objectives of the Escarpment Protection Area designation and the Purpose of the NEP.

3. The proposed development is not consistent with Section 1.1.4.2 of the Provincial Policy Statement.

Note:

Brandon Henderson, Senior Planner, was available to review the staff report and answer questions.
STAFF REPORT

Proposed Changes to the Provincial Policy Statement 2014

BACKGROUND:

The MMAH has circulated the proposed changes to the Provincial Policy Statement 2014 (PPS) to the NEC for comment with a deadline of October 21, 2019. The draft revised PPS is also posted on the Environmental Registry (ER 019-0279). The MMAH indicates that the proposed changes are intended to work together with recent changes to the Planning Act and Places to Grow: The Growth Plan for the Greater Golden Horseshoe.

RECOMMENDATION:

That the Niagara Escarpment Commission (NEC) receive this report and direct staff to undertake a review of the proposed changes to the Provincial Policy Statement, (July 2019 draft) and bring a more detailed analysis to the next regular NEC meeting.

Note:

-Nancy Mott, Senior Strategic Advisor, reviewed the staff report and answered questions.

DISCUSSION:

The Commission asked if the current process is how the PPS is normally updated; staff noted that while the review is normally done every ten years; this review is before the five year mark and a number of policy changes beyond just conformity with other
It was suggested that the earlier review may have been undertaken to address the affordable housing issue identified by the province.

C2

STAFF REPORT
Proposed Amendment to the Parkway Belt West Plan
MMAH File No. 24-PBW-185176

BACKGROUND:

The MMAH circulated a proposed Amendment to the PBWP to the NEC for comment with a deadline of August 16, 2019. The Amendment relates to lands designated Electric Power Facility in the PBWP. A portion of those lands is within the Niagara Escarpment Plan (NEP) Area, in the City of Hamilton. See Appendix 1, location map.

The proposed Amendment would allow temporary uses such as parking, storage and signage on lands designated Electric Power Facility. See Appendix 2, draft Amendment. The Amendment is being sought by Infrastructure Ontario. They regularly submit applications on a site-specific basis to allow them to lease publicly owned lands for secondary uses but are seeking the Amendment so that they would not have to apply individually for each proposed use as they are finding it costly and time consuming.

RECOMMENDATION:

That the Niagara Escarpment Commission (NEC) endorse this report and direct NEC staff to enter into discussions with staff of MMAH regarding the proposed Amendment to the PBWP.

Note:

-Nancy Mott, Senior Strategic Advisor, reviewed the staff report and answered questions.

M797R11/08-2019

Moved By: Mausberg
Seconded By: Haswell

“That the approve the staff recommendation.”

Motion Carried
STAFF REPORT

PROPOSED REVISIONS to NIAGARA ESCARPMENT COMMISSION APPLICATIONS AND FORMS

PROPOSAL:

To revise, simplify, and combine the forms used by the Niagara Escarpment Commission to improve ease of use for the public and to make minor formatting changes.

BACKGROUND:

Presently, there are five (5) forms that are used by the public in the various processes of the Niagara Escarpment Commission. These forms include:

1. The Development Permit Application form,
2. The Development Permit Application Appeal form,
3. The Niagara Escarpment Plan Amendment form,
4. The Mineral Resource Extraction Area Plan Amendment form, and,
5. The Telecommunications and Radio Tower Facilities Application form.

Section 4 of Ontario Regulation 828/90 was amended in 1990 to allow the Niagara Escarpment Commission to create and revise/update as necessary, the Niagara Escarpment Development Permit Application. Prior to that date the Commission could not make changes to the form. The application form provides Commission Planners with the information on a proposed development.

The four (4) other forms used by the Commission are not included within Ontario Regulation 828/90 but have typically been reviewed and approved by the Commission prior to their implementation. The forms have been revised in the past to make them easier for the public to complete, provide additional sections to describe the development proposals, address changes in municipal names due to amalgamations, include references to the NEC website, provide clearer instructions and/or examples to applicants on how to complete the forms, to improve ease of use of the online fillable form, and minor formatting changes.

The proposed revisions have been initiated in support of an Open for Business initiative which seeks to removing burdens to applicants by reducing the amount of information requested when filling out government forms. NEC staff have reviewed the five (5) current forms and are proposing to reduce them to three (3) forms and to reduce the total number of questions included on the forms.

RECOMMENDATION:

The Commission pursuant to Section 4 of Ontario Regulation 828/90, as amended, approve the revisions to the Niagara Escarpment Development Permit Application form,
as well as the changes to the Niagara Escarpment Plan Amendment and the Development Permit Application Appeal forms.

Note:

Brandon Henderson, Senior Planner, reviewed the staff report and answered questions.

**M797R12/08-2019**  
Moved By: Mausberg  
Seconded By: Pim  

“That the Commission approve the staff recommendation, with staff to report back at the appropriate time on further enhancements.”

Motion Carried

**DISCUSSION:**

Commissioner Horner suggested including a checklist similar to the Golden Horseshoe Farm Alliance and will forward to the staff for reference. The Commission suggested that a similar form for telecommunication towers would be appropriate. The Commission also suggested including a flow chart to assist applicants in understanding the process.

**CONSENT AGENDA: G PACKAGE PACKAGE (Information items)**

G1 Director Approvals and Dashboard for June and July 2019  
G2 Appeals and Hearings Status Chart as of July 31, 2019  
G3 Director’s Report for June and July 2019  
G4 Plan Amendments Status Update as of July 31, 2019  
G5 Hearing Officers Report on Development Permit Application G/T/2017-2018/9003 (Meaford and District Ridge Runner Snowmobile Club)  
G6 Greenbelt Council Report # 7  
G7 Summary Report of Development Permit Activity for the 2018-2019 Fiscal Year

**M797R13/08-2019**  
Moved By: Robertson  
Seconded By: Pim  

“That the Commission receive the information reports.”

Motion Carried

**DISCUSSION:**

Commissioner Pim noted that the chart in G7 which showed the number of exemptions issued is important information and shows a more clear picture of staff time.
Commissioner Mausberg noted staff has improved development permit application processing time by 76%, though funding has not been increased.

**CHAIR’S ITEMS**

The Chair advised that the government’s review of agencies, boards and commissions is underway. The NEC review was completed in July and he is encouraged by the direction received.

The Chair advised that the Commissioner appointment and reappointment processes are underway and credited the municipalities for forwarding their nomination information in a timely manner.

Commissioner Pim advised that her term was ending August 16, 2019, and that it was an honour and privilege to serve on the Commission. The Chair thanked Commissioner Pim for her dedication and continued work on the NEC and Greenbelt Council.

The Chair noted that his term expires in early October and a new Chair will need to be appointed before the Commission can meet after the September meeting.

**NEW BUSINESS**

None.

**ADJOURNMENT**

M797R14/08-2019

*Moved By:* Mausberg

“That this meeting be adjourned.”

*Motion Carried*

**Time of Adjournment:** 2:30 p.m.

R.F. (Russ) Powers
Chair