MINUTES OF M795/05-2019
NIAGARA ESCARPMENT COMMISSION
GEORGETOWN, ONTARIO
May 16, 2019


Regrets: None.


Also Present: R. Pineo, Niagara Escarpment Program Team Leader, (MNRF), S. Cooper, Partnership Liaison and Advisor, Natural Heritage Section (MNRF), 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 welcomed the Commissioners and members of the public to the meeting.

APPROVAL OF MINUTES – M794/03-2019

Moved By: Pim
Seconded By: Horner

“That the Commission approve the Commission Minutes of March 21, 2019 as amended.”

Motion Carried
CONFLICTS OF INTEREST – Declaration of Conflicts of Interest

None declared.

MOTION FOR SPEAKERS

M795R2/05-2019

Moved By: Downey
Seconded By: Greig

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

Motion Carried

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

A1

DEVELOPMENT PERMIT APPLICATION W/R/2018-2019/287
Rosa Beraldo
Part Lot 47, Concession 2
City of Hamilton (former Town of Ancaster)

PROPOSAL:

To demolish a 944.5 sq. m (10,163 sq. ft.) dwelling having a height of 11.4 m (37.4 ft.) and small accessory building, and construct a new 2.5 storey, ±1,234 sq. m (±13,279 sq. ft.) single dwelling having a height of ±15.0 m (±49.2 ft.), a one storey, ±85 sq. m (±914.6 sq. ft.) accessory building having a height of ±7.3 m (24.0 ft.), re-locate an existing swimming pool, re-align the existing driveway and connect the new dwelling to municipal sewer services on a 2.7 ha (6.7 ac.) lot.

Note: The existing dwelling is serviced by a private septic.

RECOMMENDATION:

That the Application be refused for the following reasons:
1. The proposed development conflicts with Part 2.12.7 and 2.2.1 of the Niagara Escarpment Plan.

2. The City of Hamilton Planning and Economic Development Department does not support the application, specifically the proposed connection to municipal servicing.

Note:
- Jim Avram, Senior Planner, reviewed the staff report and answered questions.
- James Webb, WEBB Planning Consultants Inc., Agent, presented and answered questions.
- Alvi Beraldo, Applicant, was present and answered questions.

Moved By: VanderBeek
Seconded By: Horner

“That the Commission support the application in principle, and direct staff return to the June meeting with appropriate conditions of approval for consideration.”

At the request of Commissioner Mausberg, the vote was recorded:

For the Motion: Against the Motion:

Baty Mackenzie
Downey Mausberg
Gilhespy Pim
Greig Robertson
Haswell
Horner
McKinlay
McQueen
VanderBeek

Motion Carried

DISCUSSION:

The Commission sympathized with staff as the applicant had received a development permit for the same works in 2015, and the 2017 NEP now prohibits the extension of municipal sewer services into the Escarpment Natural Area. The Commission discussed the difference between an extension and a connection to the existing municipal sewer services and felt that this was a connection given that servicing is directly in front of the property. They also discussed the merits of installing a larger septic system or connecting to the municipal sewer services. The Commission discussed if conditions could be drafted that would limit further development on the property if the application is approved. Staff noted that any new lots would need to be approved during a Coordinated Plan
Review as they would then involve extension of servicing. Commissioner Pim noted concern that approval of this application could contribute to the Escarpment Natural Area designation being whittled away.

A2

PROPOSED Niagara Escarpment Plan Amendment PD 214 18 (Boyne River Outdoor Education Centre)
East Half Lots 4, 5 & 6, Concessions 1 & 2
Township of Mulmur, County of Dufferin

PROPOSAL SUMMARY:

To add a special policy provision to Part 1.3 Escarpment Natural Area designation to recognize the institutional use of the Boyne River Institute Natural Science Centre as a Permitted Use.

BACKGROUND:

The Amendment Application was received on March 1, 2018 and initiated by the Niagara Escarpment Commission (NEC) on April 19, 2018. The proposed amendment reflects a site-specific set of permitted uses that if approved, would permit the re-establishment of an outdoor education centre with a focus on natural science and indigenous learning. NEC Staff are of the opinion that this type of institutional use, and associated recreation uses and uses of cultural significance supports the purpose and objectives of the Plan and provide significant positive public benefits. Additionally, the proposed use supports the principles enshrined through the UNESCO Biosphere Reserve Designation by achieving the objectives of research and education, sustainable development, and the sharing and use of indigenous knowledge.

Pursuant to the provisions of the NEPDA, notice was provided to ministries, affected municipalities, agencies, stakeholders and the public, and comments were requested. Staff has conducted multiple site visits and met with the Applicants and their planning consultant on a number of occasions. The circulation and notice period has ended and the NEC staff has considered all of the comments received. No objections to the proposed amendment are standing therefore NEC staff is satisfied that no hearing is required pursuant to Section 10 (3) and Section 10 (9) of the NEPDA. The staff recommendation is that the NEC should endorse the amendment dated May 16, 2019.

RECOMMENDATIONS:

That the Niagara Escarpment Commission:

2. Forward Niagara Escarpment Plan Amendment PD 218 18, dated May 16, 2019, as endorsed by the Niagara Escarpment Commission, to the Minister of Natural Resources and Forestry for approval pursuant to Section 10(11) of the Niagara Escarpment Planning and Development Act.

Note:

- John Stuart, A/Senior Strategic Advisor, reviewed the staff report and answered questions.
- Ludek Vavak, David Hawker-Budlovsky and Tany Senk, Toronto District School Board representatives, were present and answered questions.
- Gerry Tchisler, MHBC Planning, was present to answer questions.

**M795R4/05-2019**

Moved By: McKinlay
Seconded By: Mausberg

“That the Commission approve the staff recommendation.”

Motion Carried

**DISCUSSION:**

The Commission commended the Toronto District School Board on the initiative. Commissioner Robertson inquired about the level of involvement the School Board had with the Ministry of Indigenous Affairs and noted that the First Nations Moccasin Project is launching in the summer. Commissioner Horner encouraged the Board to collaborate with the Township of Mulmur where appropriate. Commissioner Gilhespy noted that the Board sold a portion of the property to the Bruce Trail Conservancy 10 years ago to ensure the lands were protected.

**A3**

**DEVELOPMENT PERMIT APPLICATIONS**

Francois Kneppert
Part Lot 16, Concession 1, RP 16R5940,
Municipality of Meaford (Sydenham), County of Grey

**PROPOSALS:**

To create three (3) residential building lots (2 new, 1 retained) and to construct a single dwelling, install a private septic system, and install a driveway, on the proposed and remnant lots.
RECOMMENDATION:

That the Applications be refused for the following reasons:

REASONS FOR REFUSAL

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.

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

4. The proposal is not supported by the Municipality of Meaford.

Note:

- Brandon Henderson, Senior Planner, to review the staff report and answer questions.

M795R5/05-2019

Moved By: Mausberg
Seconded By: Pim

“That the Commission accept the staff recommendation.”

Motion Carried

DISCUSSION:

Commissioner Gilhespy noted that the Bruce Trail traverses the property and made a general request that both the existing and optimum routes of the be considered in future applications.
STAFF REPORT
Cannabis Cultivation and Processing in the Town of Halton Hills

BACKGROUND:

The Town of Halton Hills has circulated a request for comments on its proposed policies on cannabis cultivation and processing operations within the Town’s boundaries. The Town’s proposal to use site-specific zoning by-laws within the Agricultura/Rural and Protected Countryside designations will result in a policy void within the NEC Development Control Area. There are no policies to clarify how the Town would like to see these operations dealt with in the NEP designations of Escarpment Protection and Rural Areas, and zoning by-laws have no effect in the NEC’s Development Control Area, as per Section 23(a) of the Niagara Escarpment Planning and Development Act. Although the NEP does have policies on agriculture and agriculture-related uses, the Town may have its own interests in ensuring that cannabis-related operations are treated consistently across the Town, and that site planning considerations are brought to the NEC’s attention through the Development Permit Application commenting process. For this reason, NEC staff has commented to the Town that it may be useful to have clear Official Plan policies that can be applied where zoning by-laws are not in effect. NEC staff has followed up with Town staff to suggest wording that can be added to the Official Plan to ensure there are policies that can be applied where zoning by-laws are not in effect. Part 1.1.1 of the NEP allows municipalities to set standards and policies that are more stringent than the requirements of the NEP, unless doing so would conflict with the NEP. The Town’s proposed criteria for cannabis-related operations are more specific than the NEP policies on agriculture and agriculture-related uses, but they do not create a policy conflict.

CONCLUSION AND RECOMMENDATION:

NEC staff’s comments are intended to support a collaborative approach to land use planning within the portions of the NEP Area within the Town’s boundaries. By ensuring policies are embedded at the Official Plan level, the Town’s interests in cannabis-related operations will be considered when NEC Development Permit Applications for such operations are under review. If the policies applied only to applications for zoning by-law amendments, they would not be applicable in the NEC’s Development Control Area, and the operations could be treated inconsistently across the municipality.

Moved By: Horner
Seconded By: Haswell

“That the Commission endorse the comments in the report and direct staff to share the report with the seven upper-tier municipalities.”

Motion Carried
DISCUSSION:

Some Commissioners expressed concern over specialty-crop agricultural lands being used for non-food crops; Commissioner Downey noted that there are already lands being used for non-food agriculture, such as cotton. Staff noted that there is no policy direction that cannabis is not agriculture. The Commission suggested cannabis cultivation in the NEP Area be added for discussion at a future meeting, as guidelines are needed. Additional concerns regarding air quality, odour management, hydroponic growth versus traditional land-grown crops, and crop value were discussed.

C2

STAFF REPORT
Modernizing Ontario’s Environmental Assessment Program
Niagara Escarpment Commission Comments on Discussion Paper by Ministry of the Environment, Conservation and Parks

BACKGROUND:

The NEC has been invited to provide comments and suggestions with respect to a Discussion Paper prepared by MECP that proposes changes to the Environmental Assessment (EA) Program (see Appendix 1). NEC staff will also be participating in an upcoming webinar which will further clarify the possible changes to the EA process. The Discussion Paper, “Modernizing Ontario’s Environmental Assessment Program” seeks input to achieve the following objectives:

• Ensure better alignment between the level of assessment and the level of risk associated with a project;
• Eliminate duplication between environmental assessments (EA’s) and other planning and approval processes;
• Find efficiencies in the EA process and related planning and approval processes to shorten timelines;
• Go digital by permitting online submissions.

The deadline for comments is May 25. NEC staff have prepared this report to explain the NEC’s current role in EAs, provide recommendations on how the NEC program could be harmonized with EA approvals and to seek the NEC’s endorsement of the recommendations.

RECOMMENDATIONS:

1) That the Niagara Escarpment Commission (NEC) endorse this staff report and submit comments to the Ministry of the Environment, Conservation and Parks (MECP) via the Environmental Registry; and,
2) That a copy of this report be sent to the Ministry of Natural Resources and Forestry for its information.
“That the Commission accept the staff recommendations and consider the suggested wording changes.”

Motion Carried

**DISCUSSION:**

Commissioner Pim noted that there is significant harm in private sector projects not being subject to the Environmental Assessment Program. Commissioner Mausberg noted that the changes may undercut the value and effectiveness of environmental assessment process. Commissioner McQueen requested information on who determines the EA class required and how the appeal process works. The Commission supported staff’s efficiency recommendations.

Broke for lunch: 12:00 p.m.

Reconvened: 1:00 p.m.

**PRESENTATION**

Mineral Aggregate Resources in the NEP Area: Land Use Planning Approval Authority of the Niagara Escarpment Commission and Alignment with Other Approval Authorities

**BACKGROUND:**

The government is seeking public comments on reforming the aggregate industry in Ontario. The online survey is focused on cutting red tape and creating jobs and concludes May 31, 2019. In the midst of the government’s consideration of the Aggregate Resources Act and planning processes related to aggregate operations, it is important to bring awareness of the unique policies of the NEP and unique planning processes arising from the Niagara Escarpment Planning and Development Act.

While the NEC was not invited to take part in the March 29, 2019 Aggregate Summit held by the Ministry of Natural Resources and Forestry, the NEC has an opportunity to provide advice through the online survey. Staff believes that the NEC should take this opportunity, before the survey concludes to offer suggestions to the MNRF to streamline the decision-making process for planning approvals for pits and quarries. Staff do not believe that any of the suggestions being proposed would offend the Purpose and Objectives of the NEP.
The process to license a pit or quarry within the Niagara Escarpment Plan is lengthy and multi-jurisdictional. In addition to the land use planning approvals from the NEC, a new pit or quarry requires a licence under the *Aggregate Resources Act (MNRF)*, Planning Act approvals (Municipal), Upper tier Official Plan Amendment, Lower Tier Official Plan Amendment, Permits to take Water under the *Ontario Water Resources Act and Certificate of Approval (MECP)*, and a Permit or Authorisation under the *Endangered Species Act (ESA) (MNRF)*. While some planning and licence approval processes proceed concurrently with the Plan Amendment and Development Permit, Licence and OPA, others do not. A Joint Board hearing, if required by opposition to the proposal, only considers these land use and aggregate approvals. Any approvals under the ESA must occur after the Development Permit has been approved. Any approvals under the *Ontario Water Resources Act* commence after all the other processes, often resulting in a completely fresh review of an approval process which may have taken years. This “sequential” process can be time-consuming, resource-intensive and costly for approval agencies and applicants (where application fees exist).

Staff has found that a multi-agency review of aggregate applications is beneficial for all parties and affords the opportunity to share technical knowledge and staff resources. With this process, a Joint Agency Review Team works together, hosts public information meetings and prepares a final report as advice to decision-makers, only with respect to the technical reports. This reduces duplication of effort as the applicant consults with all review agencies together. Following that process each individual agency will make its own recommendation to decision-makers.

In addition to multi-agency review, staff offer the following suggestions for the Commission’s consideration:

- **Public consultation:** each planning process has its own requirements for public and First Nations consultation. The public expresses concern that they have to attend multiple meetings to present their views.
  - The public meeting requirements under the NEPDA, the Planning and Act and the ARA should be combined so that the public can attend one meeting and get all the information about the proposal at one event. This would require legislative change.

- **Access to data:** data about aggregate resources, pits and quarries, their licences, compliance history, site plans, haul routes, planning and environmental approvals should be publicly accessible to all parties in one internet location.
  - Having comprehensive information regarding a licensed site would assist planning authorities in understanding what conditions apply to a site, whether rehabilitation is being undertaken progressively, any compliance issues and all the related approvals and policies that apply to the lands and responding to public inquiries.

- **Training:** The MNRF, OSSGA and university planning programs should offer training to land use planners on land use policy relating to mineral resources and the aggregate licence process on a regular basis.
- The province should take a “cradle to grave” approach to coordinating, approving and regulating aggregate operations from pre-consultation, to the submission of an application through all related government approvals, surrender of the license, completion of rehabilitation and land use approvals for any after uses of the formerly licensed site.

**RECOMMENDATIONS:**

1) To seek approval from the Niagara Escarpment Commission (NEC) to respond to a government survey regarding Aggregate Reform based on the opportunities outlined in this presentation; and,

2) To seek approval to prepare a more detailed report to the NEC, at a future date, with respect to possible improvements to the process for reviewing applications for new pits and quarries in the NEP Area as advice to staff of the Ministry of Natural Resources and Forestry (MNRF), to inform further discussion.

3) To seek approval to prepare a report, from NEC staff to MNRF staff, providing more details on the opportunities outlined in this presentation, and to inform further discussion at the staff level.

**M795R8/05-2019**

**Moved By:** Mausberg  
**Seconded By:** Robertson

“*Be it resolved that the Niagara Escarpment Commission endorse the staff recommendations as amended:*

1. *That the Niagara Escarpment Commission (NEC) respond to a government survey regarding Aggregate Reform based on the opportunities outlined in this presentation;*

2. *That NEC staff prepare a more detailed report to the NEC, by the end of May, with respect to possible improvements to the process for reviewing applications for new pits and quarries and the expansion to an existing pit or quarry in the NEP Area, as advice to staff of the Ministry of Natural Resources and Forestry (MNRF), to inform further discussion; and,*

3. *That NEC staff prepare a report, from NEC staff to MNRF staff, providing more details on the opportunities outlined in this presentation, and to inform further discussion at the staff level.***

*Motion Carried*
DISCUSSION:

Commissioner Pim proposed a friendly amendment to Recommendation 2 to add “the expansion to” and existing pit or quarry. The Mover (Commissioner Mausberg) and Seconder (Commissioner Robertson) agreed with the friendly amendment.

Commissioner Mausberg noted his concern that the government initiative was an attempt to minimize environmental protections.

The Commission strongly recommended that staff incorporate the last recorded (2014) Commission position on aggregates, pits and quarries into the staff report for context prior to sharing the MNRF staff.

CONSENT AGENDA: E PACKAGE (Staff Reports)

E1

AS-BUILT DEVELOPMENT PERMIT APPLICATION H/S/2017-2018/358
2435991 Ontario Inc.
Part Lot 9, Concession 4
Town of Milton, Region of Halton

PROPOSAL:

To recognize the installation of a new gas line service and associated site alterations/trench excavation, having a depth of ±1.5m (±5ft) and a length of ±144.7m (±475ft) and backfilled with pipe bedding sand.

RECOMMENDATION:

That the Application be approved for the following reasons:

CONDITIONS OF APPROVAL H/S/2017-2018/358

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 except those where approved under the Development Permit. Native plant material should be sourced from local plant nurseries when available; bush dug plant material is not acceptable.

Notes/Advisories:

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., Planning Act, 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.

M795R9/05-2019
Moved By: Mausberg
Seconded By: Robertson

“That the Commission accept the staff recommendation.”

Motion Carried

CONSENT AGENDA: G PACKAGE (Information items)

G1 Director Approvals and Dashboard for March and April 2019
G2 Appeals and Hearings Status Chart as of April 30, 2019
G3 Director’s Report for March and April 2019
G4 Plan Amendments Status Update as of April 30, 2019
G5 Minister approved NEPA PD 212 17 (Sinclair)
G6 Letter from the NEC to MNRF Aurora District dated April 15, 2019 regarding Aggregate Resource Act Licence Application – Blueland Farms Ltd. (McCormick Pit)
G7 Greenbelt Council Report #4
G9 March 14, 2019 Letter from the Ontario Federation of Agriculture to the Ministers of Natural Resources and Forestry and Municipal Affairs and Housing on the Niagara Escarpment Plan Agricultural Policies


**M795R10/05-2019**

**Moved By:** Mausberg  
**Seconded By:** McQueen

“That the Commission move Consent Agenda Items G1 to G10.”

*Motion Carried*

**DISCUSSION:**

**G1:**

Commissioner Horner requested information on the need for a Development Permit for a temporary tent. D. Ramsay explained that O.Reg 828/90 exempts one special event tent that is temporary.

Commissioner Robertson requested that they be provided with a summary of last years Development Permit activity. D. Ramsay advised that information will be shared with the Commission as the Annual Report is under development.

**G5:**

Commissioner Pim asked which staff member has been assigned to Plan Amendment PD 212 17. Management advised that John Stuart, (Acting) Senior Strategic Advisor, now has carriage of the file.

**G7:**

Commissioner Mausberg noted that the Greenbelt Council April 2019 report makes specific reference to focusing intensification first within urban boundaries.

**G9:**

The Commission request context regarding the Ontario Federation of Agriculture’s letter and requested additional information on winery policies in Niagara Escarpment Plan, and if wineries have requested exemption from the Plan. Staff noted no exemption requests have been received, and a 2018 presentation to the Niagara Wine Council was very well received. Staff also noted that the Ontario Federation of Agriculture sits on the NEC Public Interest Advisory Committee.
CHAIR’S ITEMS

The Chair noted that this was Commissioner Baty’s last meeting after serving nine years on the Commission. He thanked the Commissioner for his dedication and positive impact on the Commission. Commissioner Baty thanked his fellow Commissioners and staff and commented on how well the Outreach sessions were received in Niagara Region. He commended under-resourced staff on their dedication to upholding the Niagara Escarpment Plan. He also strongly recommended that the Commissioners undertake site visits to facilitate a better understanding of the Niagara Escarpment Plan mandate.

The Commissioners expressed concern that several Commissioner appointments are ending over the next eight weeks, and that without new appointments, quorum will not be met and no further meetings can take place.

NEW BUSINESS

None.

ADJOURNMENT

M795R11/05-2019 Moved By: McKinlay

“That this meeting be adjourned.”

Motion Carried

Time of Adjournment: 2:05 p.m.

R.F. (Russ) Powers
Chair