MINUTES OF M759/05-2015
NIAGARA ESCARPMENT COMMISSION
GEORGETOWN, ONTARIO
May 21, 2015


Regrets: None.


Also Present: S. Aslam, Land Use and Planning Advisor, Natural Heritage Land Use Planning Section, MNRF.

Meeting called to order: 10:00 a.m.

Chair Don Scott presided.

Introductions:

Manager Bohdan Wynnycky introduced the Commission to Sean Stewart, Acting Planner for Peel Region and Dufferin County, until the position has been permanently filled.

AGENDA ITEM I – M757/03-2015

M759R1/05-2015

Moved By: Cambray
Seconded By: Borodczak

“That the Commission accept the Commission Minutes of April 15 and 16, 2015, with a correction to Motion M758R7/04-2015 as it was Commissioner Baty that moved the motion “to receive the presentation”. Also the wording on page 13 in the Discussion Section on the G and H package regarding the County of Dufferin Official Plan requires a change as it relates to the Official Plan and not the Planning Act.”

Motion Carried
Business Arising from the Previous Minutes

No business arising.

The Policy Minutes of Wednesday, April 15, 2015, will be ratified at the June 18th Commission meeting to allow the Commission a chance to thoroughly review the draft Minutes.

AGENDA ITEM II – Declaration of Conflicts of Interest

None declared.

AGENDA ITEM III – Applications & Planning Reports

M759R2/05-2015

Moved By: Miller
Seconded By: Beattie

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

Motion Carried

IN CAMERA SESSION

The Commission went in-camera to discuss legal matters.

M759R3/05-2015

Moved By: Miller
Seconded By: Beattie

“That the Commission move in-camera.”

Motion Carried

M759R4/05-2015

Moved By: Beattie
Seconded By: Cambray

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

Motion Carried
C1

RE: NOTICE OF DECISION
NEC File P/E/2009-2010/242; H.O. Case No. 13-105
Brampton Brick Limited
Cheltenham Quarry
Township of Caledon Peel Region

CONCLUSION:

The Hearing Officers found that the Appellant’s proposal does not fit into any of the categories of permitted uses described in para. 1.9 of the Niagara Escarpment Plan (NEP) and that the Appellant’s proposal is therefore not a permitted use under the NEP.

DECISION:

The Hearing Officers found that the decision of the NEC of July 23, 2013, to refuse Development Permit Application P/E/2009-2010/242 is correct and should not be changed. The Niagara Escarpment Commission’s decision is therefore confirmed pursuant to s. 25(12) of the Niagara Escarpment Planning and Development Act.

Note: Ken Whitbread, Manager, briefly summarized the Hearing Office Report. Michael Baran, Planner, was available to answer questions and spoke briefly.

M759R5/05-2015 Moved By: Borodczak
Moved By: Borodczak
Seconded By: Beattie
Seconded By: Beattie

“That the Commission receive the Decision Report.”

Motion Carried

NOTE: The Commission thanked Michael Baran for his hard work at the hearing and his success at having the hearing time reduced.

C5

RE: STAFF REPORT
Appeal against the decision of the Committee of Adjustment for the City of Hamilton to approve Consent Application AN/B-15:24
353 Sulphur Springs Road
(Former) Town of Ancaster City of Hamilton

CONCLUSION:

The NEC, through the Chair, has filed an appeal against the Committee of Adjustment decision to approve a consent to facilitate the enlargement of an existing vacant lot...
intended to be developed for residential purposes. Staff endorses the reasons for the appeal, namely the decision’s conflict with Section 24.(3) of the *Niagara Escarpment Planning and Development Act* (NEPDA), and the absence of any demonstration that the approved lot configuration does not create a new building lot, as required to determine compliance with the applicable New Lots Policies under Parts 1.3 and 1.4 of the *Niagara Escarpment Plan* (NEP).

**RECOMMENDATION:**

That the NEC **confirm** its appeal against the decision of the Committee of Adjustment for the City of Hamilton to approve Consent Application No. AN/B-15:24.

**Note:** Martin Kilian, Planner, presented the staff report and answered questions.

**M759R6/05-2015**  
**Moved By:** Elgar  
**Seconded By:** Louis

“That the Commission move forward with the appeal.”  
*Motion Carried*

**A1**

**DEVELOPMENT PERMIT APPLICATION P/R/2014-2015/193**

John Buch  
Part Lot 11, Concession 6, EHS  
Town of Mono  
Dufferin County

**PROPOSAL:**

To construct a ± 169.1 sq. m. (± 1,820 sq. ft.) 2 storey single dwelling, having a maximum height of ± 10.97 m. (± 36 ft.), on an existing 4.1 ha (10.2 ac.) lot. The new dwelling is to be serviced by a new private well and private onsite sewage disposal, and accessed by an extension of the existing driveway from Hockley Road.

**RECOMMENDATION:**

The proposal be **refused**.

**Note:** Sean Stewart, Acting Planner, reviewed the staff report and answered questions.  
John Buch, Applicant, presented and answered questions.
“That the Commission accept the staff recommendation to refuse the proposal for the following reasons.”

REASONS FOR REFUSAL

1. The proposal does not comply with the Development Criteria in Parts 2.2.1 a, and 2.2.4 of the Niagara Escarpment Plan.

2. The proposal does not conform to the objective and policies of New Development Affecting Steep Slopes and Ravines in Part 2.5.5 of the Niagara Escarpment Plan.

3. The proposal does not conform to the objective and policies of New Development Within Wooded Areas in Parts 2.7.1 to 2.7.3 of the Niagara Escarpment Plan.

4. Nottawasaga Valley Conservation Authority does not provide support for the proposal.

5. Town of Mono does not provide support for the proposal.

Motion Carried

A2

DEVELOPMENT PERMIT APPLICATION P/R/2013-2014/263
Francesco Labricciosa
Part Lot 21, Concession 6, WHS
Town of Caledon Peel Region

PROPOSAL:

To construct a 2 storey (plus walkout), ± 156 sq. m. (1677 sq. ft.) single dwelling, onsite sewage disposal and driveway, with retaining wall, on a 1.47 ha (3.64 ac) existing lot.

RECOMMENDATION:

The proposal be refused for the following reasons:

1. The proposal does not comply with the Development Criteria in Parts 2.2.1 a, b, c, and d of the Niagara Escarpment Plan.

2. The proposal does not conform to the objective and policies of New Development Affecting Steep Slopes and Ravines in Part 2.5 of the Niagara Escarpment Plan.
3. The proposal does not conform to Section 3.3.1b of the Provincial Policy Statement.

4. Credit Valley Conservation does not support the proposal.

5. Town of Caledon does not support the proposal.

*This Application was withdrawn on May 15, 2015.*

C4 SUB # 9573

RE: STAFF REPORT
Niagara Escarpment Commission Response to Our Region, Our Community, Our Home: A Discussion Document for the 2015 Co-ordinated Review

BACKGROUND:

Staff prepared a letter to be sent to Minister Bill Mauro, as the Commission’s response to the Co-ordinated Review Discussion Document Our Region, Our Community, Our Home.

The letter contains background on the NEC’s Discussion Paper topics, as well as a high-level overview of the amendments that will be proposed for each topic. Once all Discussion Papers have been completed and endorsed by the Commission, the detailed amendments will be forwarded to the Minister as a complete package.

The NEC Discussion Paper topics have been organized to fit within the six Co-ordinated Review goals that are outlined in Our Region, Our Community, Our Home.

Consultation on the first phase of the Co-ordinated Review closes on May 28th. The letter should be sent on or before that date.

RECOMMENDATIONS:

- That the Commission endorse the following response to the first phase of the 2015 Co-ordinated Review of the four provincial land use plans;

- That the response be forwarded as a letter to the Minister of Natural Resources and Forestry, with copies to the Minister of Municipal Affairs and Housing and the Co-ordinated Review Advisory Panel.
Note: Ken Whitbread, Manager, reviewed the letter with the Commission and answered questions.

M759R8/05-2015

Moved By: Cambray
Seconded By: Elgar

“That the Commission endorse the first phase with the minor amendments noted during the discussion as well as the addition of a two to three page executive summary letter to be submitted by the required date along with the document prepared by staff to the Ministers of MMAH and MNRF and the Chair of the Co-ordinated Review panel with a copy to the Chair of the Greenbelt Foundation. The summary letter is to be reviewed and approved by the Chair and should include a request for a meeting of the Commission and the Chair of the Co-ordinated Review panel along with a note that other documents will be coming forward in addition to those noted in the attachment.”

Motion Carried

NOTE: Commissioner Miller requested to be on record as opposed.

Broke for Lunch: 12:25 p.m.

Reconvened: 1:00 p.m.

A3

DEVELOPMENT PERMIT APPLICATION G/R/2013-2014/9005
Daniel Hrodzicky
Lot 25, Concession 21
Township of Georgian Bluffs (Keppel) Grey County

PROPOSAL:

To construct a 1 storey, 371 sq m (4,000 sq ft) accessory building plus 46 sq m (500 sq ft) open roof overhang on one end, with a height to roof peak of 9.08 m (29.8 ft) for personal equipment storage, on a 10.67 ha (26.37 ac) existing lot.

RECOMMENDATION:

The Development Permit should be approved subject to conditions.

Note: Bev Nicolson, Planner, reviewed the staff report and answered questions. Dan Hrodzicky, Applicant, presented and answered questions.
“That the Commission accept the staff recommendation with the following conditions.”

**CONDITIONS of APPROVAL**

1. Non-fulfillment or breach of any one of the conditions shall render the Development Permit void.

2. A site inspection(s) to the property may be undertaken by the Niagara Escarpment Commission to ensure that the development complies with the conditions of the Development Permit. Persons may accompany the Commission representatives on the site inspection(s) who possess expert or special knowledge related to the conditions of the Development Permit.

3. No municipal Building Permit or other license, certificate, permit or similar permission relating to development shall be issued or be considered to be in force unless the Development Permit is in effect.

4. The Development Permit shall expire three years from its date of issuance unless a valid municipal Building Permit is issued within the three years and the development has been completed.

5. Development shall take place only in accordance with the Final Site Plan and Development Permit Application as approved, and in accordance with the following conditions.

6. No grading of the existing contours of the development area is permitted with the exception of that which is absolutely required for the construction of the accessory building.

7. No trees other than dead or diseased trees shall be cut or removed from the development area with the exception of those absolutely necessary for the construction of the accessory building. Forest tree cutting for the clearing and building envelope shall not occur between May 15 and July 15 in any given year, during the active forest bird breeding season, without permitting under the *Migratory Birds Act*. Tree removal shall be kept to a minimum to retain the visual character of the property and the ecological values of the treed area(s), as per the Final Site Plan (Condition # 11).

8. Screening, landscaping and rehabilitation shall commence by the end of the growing season after the development is completed. All trees, shrubs and nursery stock shall be native to Ontario. Trees shall be planted in accordance with the Final Site Plan (Condition #11), and planting shall be confirmed in writing by the author of the Aquatic and Wildlife Services (AWS) Natural Heritage Environmental Impact Study (EIS), and/or by a qualified professional.
9. The accessory building shall not be used as a dwelling unit, for human habitation / accommodation, for commercial / industrial uses or for animal husbandry purposes.

10. Prior to the commencement of construction, a Building Permit issued by the Township of Georgian Bluffs, which is in accordance with the approved Development Permit Application and Final Site Plan as approved by the Commission, shall be obtained.

11. Prior to the issuance of a Development Permit by the Niagara Escarpment Commission, the applicant shall submit a Final Site Plan for Niagara Escarpment Commission approval. The Final Site Plan shall include the mitigation measures outlined in section 18 of the EIS report and shall include, but not be limited to the following:

   a) the location of the proposed accessory building;
   b) the limits of the construction area and extent of any tree removal areas;
   c) the location and design of a limit-to-work protective barrier (i.e., construction/snow fencing) to the northern boundary of the work area, which shall remain be installed prior to, and remain in place until all construction activities are completed;
   d) the location of the plant colonies identified in the EIS;
   e) the tree planting location, species and maintenance as outlined in the EIS;
   f) the location of additional recommended tree planting of bare root stock native species, and provision for long-term maintenance, for a distance of approximately 15 m (50 ft) in the area cleared for trails to the north and east of the proposed building.

   The approved Final Site Plan shall form the Site Plan referred to in Condition # 5 and development shall proceed in accordance with the details of the approved Final Site Plan.

12. 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, final construction details for the accessory building, including exterior elevations, floor area, height above existing and proposed grades and the number of stories. Upon approval, these plans will be stamped “NEC Approved” and shall then form part of the Development Permit referred to in Condition # 5. Development shall occur in accordance with the approved final construction details.

13. This conditional approval shall be void if a Development Permit is not issued within one (1) year of the date of the confirmation of the Development Permit Application decision.
NOTE:

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).

Motion Carried

C2 SUB # 9572

RE: STAFF REPORT

An Overview of the Risk-based Inspection, Investigation and Enforcement Program and Occurrence Tracking System for the Niagara Escarpment Commission

BACKGROUND:

Inspections, investigations and enforcement of the *Niagara Escarpment Planning and Development Act (NEPDA)* and its regulations are a shared responsibility of the Niagara Escarpment Commission (NEC) and the Ministry of Natural Resources and Forestry (MNRF). The NEC’s Inspection, Investigation and Enforcement (II&E) Program is undertaken by way of an II&E Protocol (Protocol) between the MNRF and the NEC. The Protocol was updated and approved in January 2015. The II&E Protocol describes the respective roles and responsibilities of the NEC and the MNRF in delivering inspections, investigations and enforcement functions that support the implementation of the NEPDA and its regulations. The NEPDA provides for administrative orders and offence provisions to address non-compliance.

All NEC staff apply a risk management approach to compliance activities. A *2013 How to Guide on Integrating Risk in MNR articulates the Risk Management Framework* is used to make strategic, risk-informed decisions in response to compliance matters. A new risk-based tool, the Informed Judgement Matrix (IJM) provides guidance to staff when evaluating a compliance issue. When a potential violation is found, the IJM provides the framework to gather and consider information about the occurrence including compliance history and potential environmental impact. Staff use this case specific information to exercise informed judgement when determining the appropriate response from the suite of options in the compliance continuum. The options for response include encouraging voluntary compliance, using a development permit to gain compliance, applying an administrative order, a warning, and/or laying of a charge.
CONCLUSION:

There have been demonstrable benefits associated with the use of the system over the last 18 months, including access to a robust searchable system which can inform compliance action, improved quality of information to communicate with NEC and MNRF staff and determine and assign work priorities. The system also provides an effective database to plan, monitor and report on compliance activity.

RECOMMENDATION:

That the Report be received by the Commission.

Note: Bohdan Wynnycky, Manager, reviewed the staff report and answered questions. O. J. MacDonald, Compliance Specialist, reviewed the process that has been implemented to track and resolve compliance issues.

M759R10/05-2015

Moved By: Louis
Seconded By: Borodczak

“That the Commission receive the staff report.”

Motion Carried

C3 SUB # 9571

RE: STAFF REPORT
“As-built” Activity for Development Permit Applications

BACKGROUND:

In 2014, the Niagara Escarpment Commission (NEC) noted an apparent increase in Development Permit Applications (DPA) where development had occurred prior to receiving approval. Staff was requested to report back on trends over time and assess how these DPAs have been dealt with by staff.

The term “As-Built” is intended to refer to any development that is occurring, or has been completed in the absence of an approved Development Permit.

As-Builts are situations where development has occurred without the benefit of any NEC planning review or assessment, or other planning or regulatory review or approvals. Given their impact on the Escarpment’s natural environment is unknown, As-Builts are generally viewed as having a higher risk of not being in compliance with the policies of the NEP than development proposals that have not been undertaken.
As most As-Builts are typically not discovered until well after the work has been undertaken or completed, the new guideline will assist NEC staff by utilizing a consistent framework for reviewing and processing As-Built DPAs while at the same time not compromising the ability of the NEC to pursue a potential violation under the Niagara Escarpment Planning and Development Act (NEPDA).

**COMMENTS:**

With a formal As-Built guideline in place, these applications can be processed in a consistent and timely manner for a decision. The guideline should also improve public understanding of the NEC’s response to unauthorized development.

**Note:** Bohdan Wynnycky, Manager, reviewed the staff report and answered questions. O. J. MacDonald, Compliance Specialist, reviewed the process that has been implemented to track and resolve compliance issues.

M759R11/05-2015

Moved By: Miller
Seconded By: Beattie

“That the Commission receive the staff report.”

Motion Carried

**PR1**

**NIAGARA ESCARPMENT PLAN REVIEW 2015**
**DISCUSSION PAPER**
**TOPIC 1:** Land Use Designation Criteria Mapping:
County of Grey

**BACKGROUND**

The existing Land Use Designation mapping dates back to the original NEP approved in 1985. At the April 17, 2013 Niagara Escarpment Commission (NEC) Policy Meeting and the June 20, 2013 Commission meeting, staff presented a 2015 Plan Review Discussion Paper and Addendum Discussion Paper which outlined options for proposed amendments to the existing NEP Land Use Designation Criteria, including the introduction of new Designation Criteria for consideration by the Commission.

The proposals for amendments, including the introduction of new Designation Criteria were identified for the purposes of providing clarity and enhanced consistency in NEP interpretation, and would also serve to update or modernize terminology respecting natural heritage features and areas. Where appropriate, the updated terminology and
definitions respecting provincially significant natural heritage features and areas proposed by staff and endorsed by the Commission are consistent with the Provincial Policy Statement (PPS, 2014), Greenbelt Plan and the Oak Ridges Moraine Conservation Plan (ORMCP).

The Land Use Designation Criteria for the Escarpment Urban Area, Minor Urban Centres, Escarpment Recreation Area, with the exception of Grey County, and Mineral Resource Extraction Areas were not proposed to be modified though the Land Use Designation Criteria Topic.

The Report served to provide additional detail, where required, with respect to the data utilized in the mapping of certain Land Use Designation Criteria specific to the County of Grey.

NEXT STEPS

The mapping for all Escarpment municipalities has been completed. Staff will prepare a report summarizing the findings and take into consideration the Commission’s discussion on the mapping and provide final recommendations on the Land Use Designation Criteria for consideration at a future meeting.

RECOMMENDATION

That the Commission receive the Land Use Designation Criteria mapping for the County of Grey as presented, and that staff provide final summary and recommendations for the Land Use Designation Criteria Topic at a future meeting.

DISCUSSION

Outliers are Escarpment features and fall under Escarpment Natural or Escarpment Protection Designation.

The Commission requested that staff review the discussion paper with the Grey County representative when one is appointed for his/her information.

Staff explained that the Town of The Blue Mountains no longer refers to the Camperdown Craigleith Plan but the NEP still does.

Minor typos were noted and will be amended by staff.

Note: Ken Whitbread, Manager, reviewed the Discussion paper and answered questions. Dan Ventresca, GIS Specialist, reviewed the mapping changes based on the various scenarios and answered questions.
“That the Commission accept the staff recommendation.”

Motion Carried

AGENDA ITEM IV – Information Reports (Packages G & H)

“That the Commission receive the ‘G’ and ‘H’ package.”

Motion Carried

DISCUSSION

Commissioner Little remarked that it was good that the developer accepted the Commission’s recommendations and built them into the plans of the subdivision as per item G8 in the package.

The Commission discussed the new format of the Director’s report which requires some additional formatting that will be addressed by staff. The Commission noted that Anne Marie Laurence has accepted a position with MNRF, Guelph District and wished her all the best in her new position after many years with the Commission.

Ken Whitbread, Manager, advised that Plan Amendments 162 and 164 has made the decision not to be a part of the Plan Review Urban Use amendments.

Deb Pella Keen, Director, shared MNRF’s Strategic Plan, Horizons 2020 with the Commission. It sets out 5 key goals and desired outcomes that allow staff, including the NEC, to consider how their work contributes to achieving these goals.

Commissioner Cambray referred to G5 and G7 in the information package as examples of how infrastructure is destroying the Escarpment. Kellie McCormack, Senior Strategic Advisor, responded to the Commissioner’s concerns regarding G5. It was noted that the studies were completed without the NEC’s involvement as there is a small section that is in the Escarpment area and therefore a Development Permit Application will be required.
NEW BUSINESS

Staff reviewed the change to per diem claims to the Commission for the new interim process for per diems being implemented to reflect the new rules from Canada Revenue Agency (CRA) regarding income tax deductions at the time remuneration is claimed. This interim process will be taking place from May 1 to December 31, 2015, and will require the Commissioners to complete a new form for per diem claims along with a signed and completed TD1 and TD1ON form (optional). Commissioners are to select the amount of tax, if any, that is to be withheld from their per diem. The expenses will continue to be processed in the same manner as with previous claims.

AGENDA ITEM VI – Adjournment

M759R14/05-2015

Moved By: Louis

“That this meeting be adjourned.”

Motion Carried

Time of Adjournment: 2:40 p.m.

______________________________
Don Scott
Chair
## OUTSTANDING ACTION ITEMS

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Commission Date</th>
<th>Action Required</th>
<th>Update</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy Paper on energy development on NEP lands</td>
<td>October 16, 2014</td>
<td>NEC staff to produce a Policy Paper</td>
<td>For Fall of 2015</td>
</tr>
<tr>
<td>Development Permit Application H/C/2013-2014/226 (Victor Petrovski) City of Burlington Halton Region</td>
<td>February 19, 2015</td>
<td>Commissioner Cambray requested NEC staff prepare a progress report on this Application as no formal date was given for the deferral at the January 15, 2015 meeting.</td>
<td>June 18, 2015 Progress Report required.</td>
</tr>
<tr>
<td>Is the Smart Growth for our Communities Act (Bill 73) subject to accountability and transparency legislation</td>
<td>April 16, 2015</td>
<td>Staff will inquire and return to the Commission with a response.</td>
<td>Under Review</td>
</tr>
</tbody>
</table>