MINUTES OF M789/08-2018
NIAGARA ESCARPMENT COMMISSION
GEORGETOWN, ONTARIO
August 16, 2018


Regrets: B. Gilhespy, A. VanderBeek.


Also Present: R. Pineo, Niagara Escarpment Program Team Leader, (MNRF) R. Patrick, President, C.O.N.E.

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

Chair Russ Powers presided.

Introductions:

The Chair welcomed Senior Planner Ruth Conard and Planner Brandon Henderson to the meeting.

APPROVAL OF MINUTES – M788/06-2018

M789R1/08-2018 Moved By: McQueen
Seconded By: Pim

“That the Commission accept the Commission Minutes of June 21, 2018 as amended on pages 17 and 18.”

Motion Carried

CONFLICTS OF INTEREST – Declaration of Conflicts of Interest

None declared.
MOTION FOR SPEAKERS

M789R2/08-2018

Moved By: Horner
Seconded By: Haswell

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

Motion Carried

A2, B1

DEVELOPMENT PERMIT APPLICATION N/R/2016-2017/348
Heather Breeze c/o Richard Wengle Architect Inc.
Effingham Street
Part of Lot 6, Concession 3
Town of Pelham, Region of Niagara

PROPOSAL:

To construct a 2 storey, ± 1540.0 m² (± 16,579.97 ft²) single dwelling with two attached garages totaling ± 559.0 m² (± 6021.0 ft²) with a maximum height to peak of ± 13.1 m (± 43.0 ft.), two 1 storey, ± 40.5 m² (± 436 ft²) pool cabanas with a maximum height of ± 5.48 m (± 18 ft.), a swimming pool, entrance features, bridge, patio, trails, septic system, well, landscaping and driveways, on a 24.4 ha (60.4 ac) existing lot.

RECOMMENDATION:

That the proposal be approved subject to the following conditions:

CONDITIONS OF APPROVAL N/R/2016-2017/348

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.

7. The dwelling shall be used for the purposes of residential use only shall not be permitted to be utilized for commercial, institutional, industrial or livestock purposes. The dwelling shall also not contain a secondary dwelling unit or apartment.

8. 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 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;
   b) An accurate delineation of the approved development envelope with temporary fencing;
   c) The accurate location of all structures, sewage disposal system, driveway and parking area 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) Erosion and sediment control measures;
   g) 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.

9. 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 dwelling and accessory structures, including exterior elevations, materials utilized, floor area,
height above existing and proposed grades, exterior lighting and the number of stories. Upon approval, these plans will be stamped “NEC Approved” and shall form part of the Development Permit referred to in Condition # 1.

10. **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 approval. The Plan shall address all planting, screening requirements associated with screening and mitigation as well as amenity areas and details including any lighting fixtures proposed. 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.

11. **Prior to the issuance of a Development Permit by the Niagara Escarpment Commission**, the Landowner shall enter into an Agreement under Section 24(2.1) of the Niagara Escarpment Planning and Development Act, in a form acceptable to the Niagara Escarpment Commission. The agreement shall be registered on title of Part of Lot 6, Concession 3, Town of Pelham, Regional Municipality of Niagara at the Landowner’s expense. The Agreement shall ensure that the approved dwelling is restricted in use as stated in Condition 7. The Landowner shall provide proof satisfactory to the Niagara Escarpment Commission that the agreement has been registered against the lands [i.e., copy of the parcel registry extract and a letter from the Landowner’s solicitor that the registration is complete], and that the Landowner under this Development Permit is the Landowner of the lands at the time of registration.

12. **Prior to the issuance of a Development Permit by the Niagara Escarpment Commission**, the applicant shall submit a stage 3 archaeological assessment (and any required subsequent archaeological assessments) for (at a minimum) the proposed development area on the property to the MTCS and receive an acknowledgment letter from MTCS (copied to the NEC) confirming that all
archaeological resource concerns have met licensing and resource conservation requirements prior to development on the site.

13. **Prior to the commencement of development** appropriate sediment and erosion control measures be installed and maintained in good working order during the construction phase and not removed until all disturbed areas are revegetated to ensure muddy water and debris do not enter the watercourse.

14. All materials and equipment used for the purpose of site preparation and project completion should be operated and stored in a manner that prevents any deleterious substance (e.g. petroleum products, silt, debris, etc.) from entering the watercourses;

15. There shall be no development or disruption of the existing grades within the watercourses on site. Any development proposed within 30m of the watercourses (other than what has been approved under this application) must obtain written approval from the NPCA prior to commencement of the works on site;

16. This conditional approval expires one (1) year from the date of confirmation of the decision to approve the Development Permit application. Conditions # 8, 9, 10, 11 & 12 of this conditional approval shall be fulfilled before the expiry date.

**NOTES:**

A. Should deeply buried archaeological remains/resources be found on the property during construction activities, the Heritage Operations Unit of the Ontario Ministry of Tourism, Culture and Sport and shall be notified immediately. In the event that human remains are encountered during construction, the owner shall immediately notify the police or coroner, the Registrar of Cemeteries of the Ministry of Small Business and Consumer Services, and the Ministry of Tourism, Culture and Sport.

B. 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.

C. 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.

D. The transmission lines abutting the subject lands operate at 500,000, 230,000 or 115,000 volts. Section 188 – Proximity – of the Regulations for Construction Projects in the Occupational Health and Safety Act, require that no object be brought closer than 6 metres (20 feet) to an energized 500 kV conductor. The
distance for 230 kV conductors is 4.5 metres (15 feet), and it is 3 metres (10 feet) for 115 kV conductors. It is the developer’s responsibility to be aware, and to make all personnel on site aware, that all equipment and personnel must come no closer than the distance specified in the Act. They should also be aware that the conductors can raise and lower without warning, depending on the electrical demand placed on the line.

**NOTE:**
- John Stuart, Senior Planner, presented and answered questions.
- Craig Smallman, Representative of the Neighbours, presented and answered questions.
- Thomas A. Richardson, Sullivan Mahoney, presented and answered questions.
- Andrew Deane, Wengle Architect Inc., Agent, and Matthew Shrompf, Applicant, presented and answered questions.

**M789R3/08-2018**

*Moved By:* McKinlay  
*Seconded By:* Haswell

“That the Commission accept the staff recommendation.”

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

For the Motion: Against the Motion:
Burton Baty
Carr Mackenzie
Downey Mausberg
Greig
Haswell
Horner
McKinlay
McQueen
Pim
Robertson

*Motion Carried*

**DISCUSSION:**

The Commission expressed concern over the increasing size of dwellings being applied for in the Niagara Escarpment Plan Area and asked what provisions exist for limiting maximum dwelling size; staff noted that while no quantitative maximum size is prescribed in the *Niagara Escarpment Plan*, Part 2 contains robust direction for height restriction through visual impact; staff also directed Commissioners to the 2016 Policy report regarding large homes in the Plan Area. Concern was also expressed that approving a dwelling of this size would set a precedent in the Plan Area and impact the Open Landscape Character and how Open Landscape is interpreted. Commissioner Mausberg inquired if the proposed dwelling would be the largest in the neighbourhood;
it was advised that, at this time, there are no dwellings larger than 7,000 square feet in the immediate vicinity.

The Commission expressed concern with 20 acres of Prime Agricultural Land proposed to be developed; staff noted that the term Prime Agricultural Land is a blanket term and not all lands are viable for profitable farming. Staff confirmed that no active specialty crop land is proposed to be removed from production.

The Commission expressed concern that this is an example of development nibbling away at Prime Agricultural Land; Commissioner Horner noted that there are only 2 areas of Specialty Crop Land existing at this point in Ontario and it is very worrisome to remove the land; Commissioner McKinlay was concerned that this development could sterilize the land for future farming. The Commission confirmed that the previous owner had farmed the land successfully with field crops. The current owner has found a farmer to continue farming the Concord grape crops in place since 2013.

Commissioner Haswell noted the juxtaposition of the proposed large home for this application to the 169 square feet farm help temporary housing proposed in Agenda item A3.

The Commission requested confirmation that no portion of the proposed dwelling can be rented out as a short-term vacation rental (e.g. AirBnB).

Commissioner Robertson asked how the impact of the development on community character is assessed; staff indicated that this is monitored through the maintenance of open landscape character and that the NEP has provisions for protecting cultural heritage landscapes. Staff noted that some upper tier municipalities have completed cultural heritage landscape assessments.

Commissioner Pim requested further information on the definition of “qualified person” in Condition 10; staff advised that the professional needed is dependent on the level of detail required for the type of plan.

Commissioner Baty noted that contact information for the concerned neighbours would have allowed him to reach out to them before the meeting. He also noted concern with traffic impact and public interest due to the visibility of the completed house. Staff informed Commissioner Baty that information regarding identifiable individuals had been removed in keeping with Freedom of Information and Protection of Privacy Act requirements.

Commissioner Mackenzie inquired about water quality of and how hard surface drainage and run-off are being managed, and if plans exist. Staff advised that the NEP encourages green practices and that grading and draining plans are conditions of approval for the application. Commissioner McKinlay noted that there are other existing legislation to manage farm runoff as well.

Commissioner Robertson noted that there is a need for more robust tools to create maximum development footprint envelopes.
The Chair requested further information on how fill would be managed; the Applicant’s Architect advised that more fill would leave the property than be brought in.

A1

DEVELOPMENT PERMIT APPLICATION H/A/2017-2018/097
Bill Robertson
8915 15 Side Road
Part Lot 16, Concession 3
Town of Halton Hills, Region of Halton

PROPOSAL:

To recognize the unauthorized importation of 200 truckloads of fill, to permit the importation of an additional 75 truckloads of fill, and to construct a ±464.5 sq m (±5,000 sq ft) agricultural accessory building (farm equipment storage), on an existing 42.7 ha (105 ac) lot.

Note: The agricultural accessory structure as proposed is exempt from requiring a Niagara Escarpment Development Permit as per Paragraph 9 of Section 5 of Ontario Regulation 828/90.

The applicant submitted a site plan and soil report outlining the soil quality conditions.

RECOMMENDATION:

That the proposal be approved subject to the following conditions:

CONDITIONS OF APPROVAL

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 (including graded slopes) shall be re-vegetated and stabilized, by the end of the first growing season following the completion of site grading and building construction.

7. The additional 75 truckloads of fill approved for importation under this Permit shall conform with Table 1 of the current Soil, Groundwater and Sediment Standards for use per Part XV.1 of the Environmental Protection Act.

8. A report prepared by a qualified person shall be submitted to the Niagara Escarpment Commission confirming that the requirements of Condition #7 of this Approval have been met.

9. The applicant shall maintain on-site a log book of the remaining 75 truckloads of fill material imported. This log shall be provided to Niagara Escarpment Commission staff immediately upon request and shall include the following details:
   • Name and contact information of Hauler;
   • Date of importation;
   • Time of importation;
   • Source/generation site location;
   • Number of loads.

10. Upon completion of fill importation approved by this Development Permit, the area shall be inspected by a qualified person certifying the development has been completed as shown on the Final Site Plan (Condition #1).

11. 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 for approval. The Plan shall include, but not be limited to the following:
   • 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;
   • An accurate delineation of the approved development envelope;
   • 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.;
   • Extent of all disturbed areas;
   • Erosion and Sediment Control measures;
   • 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.

12. **Prior to the issuance of a Development Permit by the Niagara Escarpment Commission**, a grading and drainage plan indicating the extent and amount of fill placement shall be provided.

13. **Prior to the commencement of any development**, appropriate erosion/sediment control measures shall be implemented and maintained as shown on the approved Site Plan (Condition #1) until all disturbed areas are stabilized. 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. This conditional approval expires one (1) year from the date of confirmation of the decision to approve the Development Permit application. Condition #11 and #12 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 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).

**NOTE:**

- Ruth Conard, Senior Planner, presented and answered questions.
- Bill Robertson, Applicant, was present and answered questions.

**M789R4/08-2018**

Moved By: Horner  
Seconded By: McQueen

“That the Commission accept the Staff recommendation.”

Motion Carried
DISCUSSION:

The Commission requested information regarding where the fill had originated from and if the Applicant paid for it. Commissioner Pim noted that fill is a contentious subject in the NEP. She asked if the property was noted as Prime Agricultural Land in the Halton Region Official Plan. Staff noted that the land is outside of the Prime Agricultural Land designation.

Commissioner McKinlay asked why it was relevant that Bruce Trail hikers would not be able to see the accessory building from the Bruce Trail, and was concerned that potential visibility would be a reason to deny a permit for an agricultural building; staff advised that the visual concern stemmed from the proposed placement of the building on top of imported fill, and that the modification of Escarpment-related landforms would result in visual impacts rather than the building itself.

The Applicant advised that his father was the first person in Ontario to allow the Bruce Trail access to private property.

Commissioner Mausberg complimented staff on the excellent staff report.

A4

DEVELOPMENT PERMIT APPLICATION S/A/2017-2018/9264
Wolfgang Zenker
8447 30/31 Side Road Nottawasaga
Part Lot 30, Concession 12
Township of Clearview, County of Simcoe

PROPOSAL:

To convert the 99.7 sq m (1072 sq ft) unfinished storage space above the existing 117.2 sq m (1260.6 sq ft) garage for the purpose of accommodating farm labour, on a 21 ha (52 ac) existing lot.

RECOMMENDATION:

That the application be refused for the following reasons:

1. The application is premature as the existing agricultural use is not the primary use of the property, and a secondary dwelling unit for farm labour may only be permitted where accessory to agriculture.

2. The secondary dwelling unit is proposed within an existing detached garage, not within a mobile or portable unit.

Note: Prior to the meeting, the Applicant had requested deferral of the Application to a future meeting.
Moved By: McQueen
Seconded By: Downey

“That the application be deferred to a later meeting, at the request of the Applicant.”

Motion Carried

Broke for lunch at 12:15 p.m.

Reconvened at 1:00 p.m.

A3

DEVELOPMENT PERMIT APPLICATION G/A/2017-2018/9197
Herman Turkstra
Part Lots 4 & 5, Concession 8 EGR, Township of Chatsworth, County of Grey

PROPOSAL:

To recognize the placement of a 1 storey 15.7 sq.m (169 sq.ft) cabin and a 1 storey 10.8 sq.m (117 sq.ft) wooden shed, to be connected by a 3.3 sq.m (36 sq.ft) connection (for a total structure size of ± 30.8 sq.m (± 332 sq.ft), to be used as a dwelling unit accessory to an agricultural use (temporary farm help accommodation). To also recognize the development of a ± 8.9 sq.m (± 96 sq.ft) farm accessory structure used for maple and apple syrup processing for personal use, on an existing 50ac lot.

RECOMMENDATION:

That the application be approved subject to the following Conditions:

CONDITIONS of APPROVAL

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

2. The Development Permit shall expire five (5) years from its date of issuance. The dwelling unit accessory to the agricultural use shall be permitted on the property for a period of up to five (5) years at which time the dwelling unit accessory to the agricultural use must be removed from the property and the site rehabilitated by the landowner to the satisfaction of the Niagara Escarpment Commission, or a new Development Permit Application be made by the landowner and approvals received prior to the lapsing date of the Development Permit from the Niagara Escarpment Commission.

3. Should the dwelling unit accessory to the agricultural use cease to be required prior to the expiration of the Development Permit identified in Condition 2, the landowner shall advise the Niagara Escarpment Commission in writing and the
temporary dwelling unit shall be removed from the property within 90 days of notification, and the site rehabilitated by the landowner to the satisfaction of the Niagara Escarpment Commission, or a new Development Permit Application be made in order to consider any alternate use(s) for the structure.

4. The dwelling unit accessory to agriculture shall not contain a home occupation or home industry use.

5. The mobile camper van currently situated on the subject property shall be removed from the property within 90 days of issuance of the Permit and shall not be used as a dwelling unit in the interim.

6. This Development Permit is not transferrable. Should the property be sold, continuation of the dwelling unit accessory to the agricultural use or an alternate use shall be re-evaluated through a new Development Permit Application.

Notes:

a) This 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 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.

NOTE:

• Lisa Grbinicek, Senior Strategic Advisor, presented and answered questions.

M789R6/08-2018

Moved By: Pim
Seconded By: Haswell

“That the Commission accept the staff recommendation.”

Motion Carried

DISCUSSION:

Several Commissioners expressed concern about the very small size and lack of servicing (water) for the temporary housing. Staff noted that the Applicant will be required to meet municipal building requirements (Building Code) and standards for the temporary dwelling. The Commission indicated that they wanted the Commission’s concerns conveyed to the Applicant and the Township.
Commissioner Horner noted that it is not the Commission’s role to determine if an Applicant is a full-time farmer, and it is not the Commission’s concern how an Applicant earns money. Staff noted that the definition of ‘farmer’ (which previously included the requirement for “full-time”, has been removed from the NEP (2017), and that Staff’s recommendation to approve the proposal is based on the nature of the farming (livestock), and that the landowner is not the full-time farmer.

The Commission inquired if other types of temporary housing had been discussed with the Applicant. Commissioner Haswell noted that it is not the Commission’s role to determine what appropriate temporary housing is.

Commissioner McKinlay inquired if the camper van onsite will be removed and asked for clarification as to why the removal of the camper/trailer is required in Condition 5. Staff advised the camper was initially brought onto the property with the intent for it to be used as the temporary dwelling and is no longer required. It appears to be used for storage, and removal will help clean up the site.

Commissioner Mackenzie inquired what mechanisms are in place to trigger a new application for the temporary housing if the Permit is not transferrable and the property is sold; staff advised that potential purchasers would be advised as part of the real estate transaction (if inquiry was made with the NEC for a compliance/file history prior to purchase).

Note: Commissioner Mausberg was not present and did not vote on A3.

C1

DEVELOPMENT PERMIT APPLICATION #11445/N/C/2017-2018/138
Decew Gun Club
Part Lots 42 & 60
City of Thorold, Region of Niagara

BACKGROUND:

The Application was presented as an example of an “As-Built” Application approved in accordance with the Niagara Escarpment Commission Director Approval Delegation of Authority.

The Decew Gun Club is located in the City of Thorold and is accessed via a driveway from Cataract Road. The subject property is designated as Escarpment Protection Area by the Niagara Escarpment Plan (NEP). Lake Moodie, Lake Gibson, and Decew Falls are located to the north of the subject property. There are several Provincially Significant Wetlands surrounding the property, the closest is approximately 50 m to the north.

The application is to recognize the unauthorized reconstruction of a firing range, and target enclosure, and proposes to reconstruct an outdoor patio (with a new covered
roof), and to add an addition onto an existing firing range. This is the first time that the property owner has undertaken development on the property prior to obtaining a Development Permit from the NEC. Provided all of the applicable Development Criteria (DC) are met, the proposal is supportable as a Director’s Approval through the as-built procedure.

The gun range is considered an existing use within the NEP. The DC of Parts 2.3.3 and 2.3.4 of the NEP supports the expansion of an existing use provided that the objectives of the applicable designation are met, and the expansion is minor in proportion to the size and scale of the use. The NEP defines a minor expansion as no more than 25% of the original development footprint, unless it can be demonstrated that a greater expansion or enlargement is compatible with the site and surrounding landscape. The ± 67.8 sq m (± 730 sq ft) addition to the firing range would result in a total increase of ± 15.6% to the existing use. If the patio which was approved in a previous Development Permit is included the total expansion would be ± 29.6%. These calculations only take into account built form, and do not consider the original gravel driveway.

NEC staff are of the opinion that the proposed expansion is supportable and meets the DC of Part 2.3 of the NEP. The resulting structures provide additional safety measures and do not result in an increase to the intensity of the use. Additionally, the proposal does not conflict with the applicable objectives of the Escarpment Protection Area or impact natural heritage features.

Staff noted an error in the staff report on pg. 1, third paragraph 8th line – word “patio” should read “deck”.

NOTE:
• Brandon Henderson, Planner, presented and answered questions.

RECOMMENDATION:
That the Niagara Escarpment Commission receive this report for information.

M789R7/08-2018
Moved By: Robertson
Seconded By: Downey

“That the Commission receive the Information Report.”

Motion Carried

DISCUSSION:
Commissioner McKinlay asked if the as-built changes were considered minor, and if development permits are required for construction necessitated by Regulation changes. Staff advised that this as-built Application was partially the result of a Regulation change and a permit was required.
PRESENTATION

Greenbelt Council June 2018 Meeting Update

Commissioner Pim provided a high level update regarding the June 27, 2018 Greenbelt Council meeting.

M789R8/08-2018

Moved By: McQueen
Seconded By: McKinlay

“That the Commission receive the update.”

Motion Carried

C2

INFORMATION REPORT

Development Permit Application #11244/N/P/2016-2017/315

District School Board of Niagara St. Johns Outdoor Learning Centre

BACKGROUND:

The Application was presented as an example of an Application approved under the Niagara Escarpment Commission Director Approval Delegation of Authority.

The St. John’s Outdoor Learning Centre (DSBN Outdoor Adventure Campus) is located in the City of Thorold along Holland Road. The subject property in which the use resides is designated as Escarpment Protection Area and is surrounded by various sensitive ecological lands (provincially significant wetlands, environmentally sensitive area, and an Area of Natural and Scientific Interest). The property also abuts a portion of Short Hills Provincial Park to the North.

Prior to the completion of construction under the most recent Development Permit the property consisted of a ± 310 m² institutional structure and a separate temporary classroom (portable). Previous approvals for the property, including an addition to the portable structure were supported through Part 2.3 (existing uses) of the Niagara Escarpment Plan. Regardless of past practices the property is recognized as being prime agricultural (specialty crop capacity), thus an institutional use of the lands would not be permissible pursuant to Part 1.4.3.12 of the NEP.

The proposal to remove a portable classroom and to construct a 1 storey, ± 152 m² (± 1653.5 ft²) accessory structure (outdoor classroom), with a height to peak of ± 5.2m (± 17.06 ft.), was ultimately supported by NEC Staff, through a Director’s Approval (delegated authority). NEC Staff were of the opinion that the proposal would be in keeping with the objectives of the applicable land use designation and would not represent an intensification of the use as the portable classroom was being removed.
Policy framework aside, this project, carried out by the District School Board of Niagara (DSBN), demonstrates that consideration of the context of an existing use site combined with forward thinking design can result in a revitalized property that is in better conformity with the NEP. Through the designs provided by the applicant/agent, and the commitment to removing the existing portable, the site was transformed and is not only in better conformity with the NEP, but is also better suited to deliver the unique educational programming that is considered a valuable community service by many families in Niagara.

RECOMMENDATION:

That the Niagara Escarpment Commission receive this report for information.

NOTE:
- John Stuart, Senior Planner, presented and answered questions.

M789R9/08-2018

Moved By: Mausberg
Seconded By: Burton

“That the Commission receive the Information Report.”

Motion Carried

DISCUSSION:

Commissioner McKinlay complimented staff on the well written report. He noted that this is an institutional use on Prime Agricultural Land, and asked if the Plan provides for non-institutional private and semi-private recreational uses. He noted a trend toward private recreational uses in the Plan Area as a topic for future discussion.

C3

STAFF REPORT

Final Recommendations to the Minister of Natural Resources and Forestry
Site Specific Amendments to the Niagara Escarpment Plan
UA 63 – 1625488 and 1652157 Ontario Inc.
UA 64, UA 65 – City of Hamilton

BACKGROUND:

In January 2017, the NEC provided its final recommendations regarding proposed site specific amendments to the NEP to permit urban uses, urban servicing and urban designations. Under Section 6.1(2.3) Niagara Escarpment Planning and Development Act (NEPDA), the only time such amendments can be proposed is during a review of the NEP. NEC staff also made the NEC aware in January 2017 that certain applications
for site specific amendments had not yet been evaluated. A decision regarding these three proposed amendments was deferred by the government, together with a number of other proposed urban amendments.

In accordance with Section 10.(1) of the NEPDA, the Environmental Bill of Rights and NEC consultation practices, the three proposed amendments, UA 63, UA 64 and UA 65 have now been circulated for comments to municipalities and agencies, have been posted on the Environmental Registry, advertised in local newspapers and posted on the NEC website to invite public input. In addition, letters were sent to First Nations by the Ministry of Natural Resources and Forestry and NEC staff sent letters to the owners of the properties in the City of Hamilton, to ensure that they were aware of the proposed amendments. NEC staff also convened a meeting of the Public Interest Advisory Committee (PIAC) to obtain their views with respect to the proposed amendments, as is required by the NEPDA, Section 10.(1)(c).

As the consultation obligations have been fulfilled, the NEC is in a position to provide its recommendations to the Minister of Natural Resources and Forestry.

RECOMMENDATION:

NEC staff is recommending to the Minister of Natural Resources and Forestry that UA 62, UA 64 and UA 65 be refused for the following reasons:

**UA 63: Part Lots 14 and 15, Concession 1, NS (Trafalgar), Town of Milton**
The proposal is not consistent with the purpose and objectives of the NEPDA and NEP. The proposal should be assessed by the municipality during a municipal comprehensive review to determine if a Milton settlement area boundary expansion is necessary to accommodate the projected population growth in Halton Region. If this analysis shows that a settlement area boundary expansion is justified, and that the subject lands are the most appropriate area to accommodate urban growth, then an amendment request can be submitted at the time of the next NEP review. PIAC agreed with staff’s recommendation to refuse the amendment.

**UA 64: 345 and 363 Jerseyville Road, City of Hamilton**
The subject properties contain only single dwellings which back onto HCA lands which are part of an ESA and an ANSI. An Urban Area designation could provide an opportunity for more intensive urban development which would not be compatible with the abutting Escarpment Natural Area designation. The existing Escarpment Rural and Natural Area designations provide the appropriate buffer between the Urban Area and the environmental features.

The re-designation of Escarpment Natural Area to Urban Area should also not be supported. The Escarpment Natural Area designation is applied to an ESA and Provincial Life Science ANSI. This area has not been altered by urban uses, and should be protected for the long term for its natural heritage significance.

**UA 65: Hamilton – 294 York Road, City of Hamilton**
The Urban Area designation is not appropriate for the property given that it is adjacent to the Environmentally Sensitive Area and may be subject to flooding. The Urban Area
designation could allow for more intensive urban uses on the subject property and would not be compatible with the designation of the adjacent lands to the east. Comments received from the public were in opposition to the proposed change in designation and the PIAC voted against the proposed re-designation.

NOTE:
- Nancy Mott and Kim Peters, Senior Strategic Advisors, presented and answered questions.

**M789R10/08-2018**

Moved By: Mausberg  
Seconded By: Downey

“*That the Commission accept the staff recommendations.*”  

*Motion Carried*

**DISCUSSION:**

Commissioner Pim asked how landowners are notified of Plan Amendment Applications when they are not the initiator; staff advised that the NEC reached out to the landowners in those cases.

**INFORMATION REPORTS – G Package**

**M789R11/08-2018**

Moved By: Downey  
Seconded By: Mausberg

“*That the Commission receive the G package.*”  

*Motion Carried*

**DISCUSSION:**

Commissioner McKinlay requested that As-Built applications be identified on the Director Approvals report.

**NEW BUSINESS**

Commissioner Mausberg requested information for Commissioner conduct during elections. The Chair reminded the Commission that information regarding conflict of interest and disclosure of wrongdoing is provided in the Commission orientation information and that staff will resend the information in light of the municipal elections.

The Chair congratulated Senior Strategic Advisor Nancy Mott on the OPPI Member Service Award she won.
The Director reviewed the list of policy items for the October Policy meeting, including second dwellings and farm help accommodation. It was also noted that On-Farm Diversified Uses, complete application requirements and events will be discussed at the Policy meeting as well. The discussions will initiate approval for staff to prepare reports expanding on the topics and the need and priority of preparing related guidance materials on them.

Commissioner Mackenzie advised the Commission of a TVO 3-part special on the Bruce Peninsula being broadcast Sunday evenings.

Commissioner Robertson encouraged the Commission to attend the upcoming Settler Treaty Pow Wow in Mississauga on August 25 and 26 in Hagersville.

Commissioner Pim, noting the reference, in the report on appeals and hearings, to the resolution of key issues at Nochemowenaing (Hunter's Point) involving the Chippewas of Nawash Unceded First Nation, the Ontario Heritage Trust and Mr. Alton Hunter, suggested that staff could prepare an Information Report for an upcoming Commission meeting.

The Chair notified the Commission that Commissioner Mackenzie published an article in the Escarpment Views Summer 2018 magazine on ravens and crows.

**ADJOURNMENT**

M789R12/08-2018

Moved By: MacKenzie

“That this meeting be adjourned.”

Motion Carried

Time of Adjournment: 3:15 p.m.

Original signed by:

R.F. (Russ) Powers
Chair