MINUTES OF M787/04-2018
NIAGARA ESCARPMENT COMMISSION
HAMILTON, ONTARIO
April 19, 2018


Regrets: None.


Also Present: E. Kerr, Counsel, Natural Resources and Forestry, R. Pineo, Niagara Escarpment Program Team Leader, J. Travers, Director, A. Boyd, Manager, S. Cooper, Partnership Liaison and Advisor, Katie Novacek, Senior Policy and Program Advisor, Natural Heritage Section, Joanna Gaweda, Conservation Programs Advisor, Natural Resources and Forestry; R. Patrick, President, C.O.N.E.

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

Introductions:

The Chair thanked the Communications Coordinator and staff for the Niagara Escarpment Plan celebration event held on April 18, 2018. It was well attended and former Chair Don Scott enjoyed the celebration of his tenure as Chair.

The Chair congratulated Commissioner Pim on her appointment to the Greenbelt Council.

APPROVAL OF MINUTES – M786/03-2018

M787R1/04-2018

Moved By: Baty
Seconded By: Pim

“That the Commission accept the Commission Minutes of March 22, 2018 with a revision in paragraph 5, page 4 changing Chair to Director.”

Motion Carried
CONFLICTS OF INTEREST – Declaration of Conflicts of Interest

Commission McKinlay declared a conflict with agenda item C3, item PG 146 03, Castle Glen.

MOTION FOR SPEAKERS

M787R2/04-2018 Moved By: Horner
Seconded By: Pim

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

Motion Carried

A1

INFORMATION REPORT
Queenston Quarry Re-Development
Niagara-on-the-Lake

BACKGROUND:

Per the approved March 22, 2018 delegation request, the property owner/Applicant presented a brief history of the subject property and proposed development, and issued a formal invitation to the Commission to attend the property. The Senior Strategic Advisor provided a status update on the related development permit application N/C/2016-2017/207 and approved Urban Amendment UA 5.

Note: Nancy Mott, Senior Strategic Advisor, presented and answered questions.

M787R3/04-2018 Moved By: VanderBeek
Seconded By: McQueen

“That the Commission receive the information report.”

Motion Carried

DISCUSSION

Commissioner Baty requested a timeline of when the quarry would cease operation and when the Applicant would be seeking municipal services; the Applicant is planning to cease the commercial operation next Fall or early Spring and retain 5 acres of quarry for internal use which does not require a licence.

Commissioner McQueen inquired about the opportunity to obtain a National Heritage designation; the Applicant advised that the Federal Application was rejected and that he is planning to apply for Federal and Provincial Heritage Designations in the future.

Note: Frank Racioppo, Applicant, presented and answered questions.
DEVELOPMENT PERMIT APPLICATION N/R/2016-2017/339
Louise Engel and David Johnson
Part Lot 19, Concession 5
No municipal address assigned
Town of Lincoln, Region of Niagara

PROPOSAL:

To demolish four (4) 1-storey accessory use structures with a maximum height to peak of ± 5.50 m (18 ft) with a combined area of ± 85.9 m² (925.0 ft²) and to construct a 2-storey, ± 278.7 m² (3,000 ft²) single dwelling with a maximum height to peak of ± 9.14 m (30.0 ft); a 2-storey, ± 80.3 m² (864.0 ft²) detached garage with a maximum height to peak of ± 7.62 m (25.0 ft); install driveway and associated parking area utilizing an existing culvert on an existing 5.13 ha (12.67 ac) lot with private well and septic facilities.

RECOMMENDATION:

The proposal be refused for the following reasons:

1. The proposal conflicts with Part 2.8.2 of the Niagara Escarpment Plan (2017);

2. The requested reduction to the MDS setback requirement is not considered minor in nature; and

3. The proposal does not conform to Section 2.3.3.3 of the Provincial Policy Statement (2014).

Note: John Stuart, Senior Planner, presented and answered questions.
Moved By: Pim
Seconded By: Haswell

“That the Commission accept the staff recommendation.”

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

For the Motion:  Carr
Downey
Greig
Haswell
Horner
McKinlay
McQueen
VanderBeek
Pim

Against the Motion:  Baty
Mausberg

Motion Carried

DISCUSSION

Commissioner Gilhespy declared a conflict of interest and abstained from the vote.

Commissioner McQueen inquired if the location of the proposed house could be changed and if the Minimum Distance Separation could be altered. The Senior Planner advised that all options had been explored prior to the staff recommendation and he was unaware of any cases where the Minimum Distance Separation has been decreased.

Commission Pim noted that while the application was complex, the Applicants are still able to farm the property remotely. Commissioner McKinlay noted that it is difficult to see conflict between farmers.

Note: Chris Mullet Koop, Neighbour, presented and answered questions. Louise Engel and David Johnson, Applicants, presented and answered questions.

A3, Bring forward A3 Addendum Report

Initial Staff Report
Proposed Niagara Escarpment Plan Amendment 214
Boyne River Natural Science Centre

BACKGROUND

The Niagara Escarpment Planning and Development Act (NEPDA) S. 6.1 (2.3) prohibits any request to amend the Escarpment Natural Area, Escarpment Protection Area, Escarpment Rural Area and Mineral Resource Extraction Area of the Niagara Escarpment.
Escarpmont Plan (NEP), to redesignate land to an urban designation or to allow urban uses, except at the time of a Plan Review. In the absence of a Minister’s Regulation defining urban uses, the NEC adopted a Commission policy in June 2005 (which was again confirmed in 2008), to address the matter, and assist in defining what uses should be considered an urban use. Proposed Amendment PD 214 is seeking a special policy exception for an outdoor education centre to be identified as a Permitted Use in the Escarpment Natural Area. The very nature of this type of programming necessitates the facility to be situated outside of an urban designation/setting, and within the land use designation(s) where Escarpment features are in a relatively natural state, and which contain important cultural heritage values.

Staff has considered the proposal in consideration of the Commission’s urban use policy, and as confirmed in the Initial Staff Report, has concluded that the use should not be considered as an urban use.

Proposed Amendment PD 214, filed by the Toronto District School Board (TDSB), seeks a special policy exception for an outdoor education centre to be identified as a Permitted Use in the Escarpment Natural Area. Staff has determined that while the TDSB’s status for the subject property as an Existing Use under the NEP has lapsed, and that an institutional use is not a permitted use in the Escarpment Natural Area, staff acknowledges the unique nature of this particular institutional use in the NEP Area. Staff recognizes the value of the TDSB objectives to re-establish the use, which includes promotion and education of natural sciences associated with the Niagara Escarpment as a World Biosphere Reserve, and Indigenous Cultural Knowledge sharing and education.

RECOMMENDATION

1. To confirm that the proposed Boyne River Valley Outdoor Education Centre is not considered an urban use and therefore may be considered further through a Plan Amendment Applicant, and

2. That the Niagara Escarpment Commission should instruct staff to process the proposed Amendment PD 212 17 Boyne River Natural Science Centre, for circulation and notification pursuant to Section 6.1(2) of the Niagara Escarpment Planning and Development Act.

Note: Lisa Grbinicek, Senior Strategic Advisor, presented and answered questions.

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Moved By: McKinlay
Seconded By: Horner

“That the Commission accept the staff Addendum Staff report recommendation to confirm that the proposed Boyne River Valley Outdoor Education Centre is not considered an urban use and therefore may be considered further through a Plan Amendment Applicant.”

Motion Carried
“That staff initiate the circulation and review of proposed Amendment PD 212 17 pursuant to Section 6.1(2) of the Niagara Escarpment Planning and Development Act.”

Motion Carried

DISCUSSION

Commissioner Horner noted that Mulmur Township has three properties with similar issues.

Overview of the Niagara Escarpment Plan Outreach Sessions

The Senior Communications and Marketing Advisor provided an update and feedback summary of the six NEC Outreach sessions held across the Niagara Escarpment Plan Area. The sessions were held for partner municipalities, conservation authorities, and industry, sector and membership organizations such as real estate agents, lawyers, engineers and landscape architects. The feedback received was very positive and interest was expressed at each session to continue with Outreach efforts on an ongoing basis. The materials presented at the sessions are posted on the NEC website.

The Commissioners were thanked for their participation in the sessions and the Commissioners concurred that the Outreach sessions were very beneficial for all parties.

Commissioner Baty noted the need for continued outreach and recommended that the Minister be informed and funding be provided going forward.

Commissioner Greig recommended annual sessions be held with lead time to accommodate for municipal meetings.

Note: Danielle D’Silva, Senior Communications and Marketing Advisor, presented and answered questions.

“That the Commission receive the 2018 NEC Outreach Sessions staff report.”

Motion Carried

Broke for lunch at 12:10 p.m.

Reconvened at 1:00 p.m.
BACKGROUND

The Ministry of Municipal Affairs (MMA) released two draft technical guidance documents intended to help municipalities implement the Growth Plan for the Greater Golden Horseshoe, 2017 (Growth Plan). The draft guidelines are:

- The Municipal Comprehensive Review Process
- Application of the Intensification and Density Targets.

They are posted on the Environmental Registry and comments are due by May 4, 2018.

The two guidance documents have been developed to support the implementation of the Growth Plan which provides a framework for managing population and employment growth. The Growth Plan policies support the policies of the NEP, particularly with respect to curbing sprawl and protecting farmland, natural heritage and water resources and cultural heritage resources.

The Municipal Comprehensive Review Process

Pursuant to the Growth Plan, single and upper tier municipalities must undertake Municipal Comprehensive Review (MCR) to bring their Official Plans into conformity with provincial policy. Local municipalities are then required to adopt official plans or official plan amendments in conformity with the MCR.

The NEC does not undertake MCR but NEC staff is involved in commenting on draft Official Plans or Official Plan amendments undertaken by municipalities as part of the MCR process. In this regard, NEC staff would be considering whether any existing urban areas or proposed urban boundary changes identified as part of MCR, were in conflict with the Urban and Minor Urban Centre (MUC) boundaries identified in the NEP 2017. During the Co-ordinated Provincial Plan Review, NEC staff consulted with staff of the MMA and identified some areas where municipal settlement area boundaries did not coincide with Urban Area and MUC boundaries in the NEP. Those discussions are ongoing.

The draft guideline prepared by MMA notes in Section 3.5.2 i), that with respect to proposed Settlement Area Boundary Expansions, any such expansion must meet the applicable requirements of provincial plans, including the NEP and source protection plans. The guideline appropriately notes that any proposed settlement area boundary expansion can only take place within the NEP Area during a 10-year review of the NEP, in accordance with S. 17 of the NEPDA.

During the 2015 Co-ordinated Provincial Plan Review, certain amendments to the NEP were approved by the Province to permit urban uses and urban services. Upper-tier and single-tier municipalities will have to consider those amendments as part of their MCR.
exercise to determine if urban growth and servicing can take place on any newly-designated Urban Areas within the NEP Area. The designation of Urban Areas within the NEP Area does not compel municipalities to assign density and servicing to those lands, unless it can be justified by the MCR exercise.

Municipalities will also have to consider the new policies on Infrastructure in Part 2.12.7 of the NEP. Those policies do not permit the extension of municipal water and waste water services and private communal water and waste water services outside the urban service boundary of a municipality to service lands in the Escarpment Natural, Protection, Rural or Mineral Resource Extraction Areas of the NEP (with limited exceptions). NEC staff recommends that the servicing restriction policy in the NEP be noted in the MCR guidance document in Section 3.2 as follows:

In particular, municipal official plan policy must not conflict with the policies of Part 2.12.7 of the Niagara Escarpment Plan 2017, which prohibit the location or extension of municipal services and private communal services into Escarpment Natural, Escarpment Protection, Escarpment Rural or Mineral Resource Extraction Areas, with limited exceptions.

Application of the Intensification and Density Targets
The second of the two guidance documents is not directly relevant to the NEC as it is intended to assist municipalities in implementing the density targets of the Growth Plan to determine land need and the planned capacity of settlement areas for the purpose of infrastructure planning as part of an intensification strategy and supporting MCR.

As noted above, NEC staff may be asked to comment on draft official plans or official plan amendments relating to MCR and density targets in consideration of NEP policy, but the NEC has no direct role in establishing population or employment targets or determining infrastructure capacity. As such, NEC staff does not recommend any changes to this guidance document.

RECOMMENDATIONS:

1. That the NEC endorse this report and provide it to the Ontario Growth Secretariat, and;

2. That the MCR Guidance Document be amended in Section 3.2, as noted in this report, to highlight the unique policy context for the location of infrastructure in the NEP Area.

Note: Nancy Mott, Senior Strategic Advisor, presented and answered questions.
“That the Commission accept staff Recommendation 1 with no changes and with the following revised Recommendation 2:

That the MCR Guidance Document be amended in Section 3.2, as noted in this report, to highlight the unique policy context for the location of infrastructure in the NEP Area, (new) in particular, municipal official plan policy must not conflict with the policies of Part 2.12.7 of the Niagara Escarpment Plan 2017, which prohibit the location or extension of municipal services and private communal services into Escarpment Natural, Escarpment Protection, Escarpment Rural or Mineral Resource Extraction Areas, with limited exceptions.”

Motion Carried

C2

INFORMATION REPORT

Niagara Escarpment Plan
2017 Office Consolidation

BACKGROUND

Before the Niagara Escarpment Plan 2017 (NEP 2017) came into effect on June 1, 2017, the Minister of Natural Resources and Forestry approved certain site specific Niagara Escarpment Plan Amendments. In addition, through Order in Council 1026/1017, a number of site specific amendments to permit urban uses and urban services were also approved following the Co-ordinated Provincial Plan Review.

The above-noted amendments, which included both text and map changes, were not consolidated into the NEP 2017 when it was released. The purpose of this report is to provide the NEC with notice that an Office Consolidation of the NEP 2017 will soon be available. The Office Consolidation incorporates not only the Plan Amendments referred to above, but also corrects some typographical errors identified by NEC and Ministry of Natural Resources and Forestry (MNRF) staff and certain planning consultants whose clients have an interest in certain amendments that were approved in the past.

RECOMMENDATION

That the Commission receive the report for information.

Note: Nancy Mott, Senior Strategic Advisor, presented and answered questions.
“That the Commission receive the report for information purposes.”

Motion Carried

C3

STAFF REPORT
Niagara Escarpment Plan Amendments to be Closed

BACKGROUND

Changes to a land use designation, policy or permitted uses require an amendment to the Niagara Escarpment Plan (NEP). There are currently six NEP amendment files over the years that remain open, but are inactive. Four of the amendment proposals were made by the NEC, and two are proposals that were made by external Stakeholders. As a housekeeping matter, these files require assessment to determine if they should continue to be processed, or if the files should be closed.

Staff has reviewed each of the files which are in various stages of the amendment process, and has made recommendations to close all of the files for various reasons. In the majority of cases, staff previously recommended deferral of the amendment applications to the Commission, as the subject matter of the amendment was identified as being in scope to be considered in the 2015 Co-ordinated Plan Review. Staff has assessed each proposal with respect to whether it has been addressed in some manner through the recent Co-ordinated Plan Review. For those files where the amendment was circulated and posted to the Environmental Registry inviting comments, a Decision Notice will also have to be prepared and submitted to the Registry in order to officially close-out the posting.

RECOMMENDATIONS

That the Commission instruct staff to close the six NEP Amendment proposal files and for those proposals not initiated by the NEC, to send letters to the Applicants informing them of the Commission’s decision to close the file for the reasons outlined.

Note: Lisa Grbinicek, Senior Strategic Advisor, presented and answered questions.

“That the Commission accept the staff recommendations.”

Motion Carried
PRESENTATION
Update on Development Control Mapping Project: Phase 1

BACKGROUND

Staff provided an update on Phase 1 of the Office of the Surveyor General (OSG) Area of Development Control Regulation Plan Project. Staff has largely reviewed the updated Phase 1 maps; after the final maps are reviewed by the Ministry of Natural Resources and Forestry, the proposed revised Regulation changes will be posted to the Environmental Registry for public consultation; the Regulation change is targeted for implementation in January 2019. The Chair advised that staff will report back on Phase 2, reducing the Area of Development Control, at a future Commission meeting.

Note: Nancy Mott, Senior Strategic Advisor, and Dan Ventresca, GIS, IM & IT Coordinator, presented and answered questions.

M787R11/04-2018
Moved By: Pim
Seconded By: Carr

“That the Commission receive the update.”

Motion Carried

DISCUSSION

Commissioner Greig noted concern that the public consultation period could conflict with municipalities. Commissioner Mausberg inquired if the OSG project was considering adding lands into the Area of Development Control and requested further information of the criteria for removing lands for the Area of Development Control. Staff advised that the lands being considered for removal from the Area of Development Control would have Municipal zoning by-laws in place.

INFORMATION REPORTS – G Package

M787R12/04-2018
Moved By: VanderBeek
Seconded By: Haswell

“That the Commission receive the G package.”

Motion Carried
NEW BUSINESS

Commissioner Pim advised the Commission that David Crombie was appointed as the Greenbelt Council Chair; she will keep the Commission informed on Greenbelt Council activities regularly.

The Director noted that a monitoring plan was referenced during the Coordinated Review process regarding the intention to link monitoring activities across the 4 Provincial Plans.

ADJOURNMENT

M787R13/04-2018

Moved By: Greig

“That this meeting be adjourned.”

Motion Carried

Time of Adjournment: 4:00 p.m.

R.F. (Russ) Powers
Chair