MINUTES OF M769/04-2016
NIAGARA ESCARPMENT COMMISSION
GEORGETOWN, ONTARIO
April 21, 2016


Regrets: J. Downey, M. Miller.


Also Present: R. Pineo, Niagara Escarpment Program Team Leader, Natural Heritage Section, MNRF; R. Patrick, President, C.O.N.E.

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

Chair Don Scott presided.

Introductions:

Manager, Bohdan Wynnycky, introduced the Commission to Jim Avram the new Planner 1 who will be providing assistance to the Georgetown office Planners with processing of development permits. The Commission welcomed Mr. Avram.

The Chair announced that Kim Peters is the current Acting Manager as of April 1st.

APPROVAL OF MINUTES – M768/03-2016

M769R1/04-2016 Moved By: Cambray
Seconded By: Horner

“That the Commission accept the Commission Minutes of March 17, 2016, with the addition of the word “quite” on page 14 in the second line of paragraph 2 before the word “accurate.”

Motion Carried
Business Arising from the Previous Minutes

It was noted Commissioners find it helpful that any discussion on G and H items have the notation of which G and H item is being discussed. Staff will continue to include this going forward.

CONFLICTS OF INTEREST – Declaration of Conflicts of Interest

None declared.

MOTION FOR SPEAKERS

M769R2/04-2016

Moved By: Louis
Seconded By: Beattie

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

Motion Carried

A3

DEVELOPMENT PERMIT APPLICATION N/L/2015-2016/309
Queenston Quarry Reclamation Company
5523 Stamford Townline Road
Town of Niagara-on-the-Lake Niagara Region

PROPOSAL:

To recognize the construction of earth works and ponds for 2.5 holes of a golf course in the quarry. The applicant states that as part of the progressive and final rehabilitation of the quarry, QQRC undertook earth works to establish the final grade of golf holes one and two and a portion of golf hole nine.

In addition, gravel has been placed near the new Rogers transmission tower to allow for the establishment of a vehicle access path, future turf department building and parking of maintenance vehicles and grading of lands in the location of the future building adjacent to Portage Road.

All works were undertaken as part of potential development of residential, recreational and commercial development of the former Queenston Quarry, which will require future Development Permit applications (DPA) and municipal planning approvals.
RECOMMENDATION:

That the application be approved subject to Conditions.

Note: Nancy Mott, Senior Strategic Advisor, and Martin Kilian, NEC Planner, reviewed the staff report and answered questions. Frank Racioppo, Applicant, presented and answered questions. (Arrived late due to car trouble but was permitted to address the Commission.)

M769R3/04-2016 Moved By: McQueen
Seconded By: Beattie

“That the Commission receive the Applicant’s presentation.”

Motion Carried

M769R4/04-2016 Moved By: Borodczak
Seconded By: Baty

“That the Commission accept the staff recommendation with the following conditions.”

Queenston Quarry Reclamation Company N/L/2015-2106/309

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 the development has been completed in accordance with the Development Permit.

5. Development shall take place only in accordance with the Site Plan and Development Permit Application and Conditions as approved.
6. No site alteration of the existing contours of the property including the placement or stockpiling of fill is permitted with the exception of that which was absolutely required for the golf course holes (Holes one, two and nine) and the vehicle access path for maintenance vehicles within the approved development envelope on the site plan and the ongoing rehabilitation of the former quarry in accordance with the site plan under the Aggregate Resources Act licence.

7. A Letter of Compliance shall be obtained from the Ministry of Tourism, Culture and Sport indicating that all their requirements with respect to the archaeological investigation of the property have been met.

Note:

a) This Development Permit does not limit the need for or the requirements of any other approval, license or certificate under any statute (e.g. Ontario Building Code, Conservation Authorities Act and Aggregate Resources Act).

Motion Carried

NOTE: The Commission asked that a letter be sent to the Applicant requesting a comprehensive plan with future applications.

There was a discussion following Mr. Racioppo’s presentation regarding the Queenston Landscape of Nations Memorial which will utilize the stone currently being quarried from the Queenston Quarry as noted by Mr. Racioppo. The Commission supported inviting Mr. Tim Johnson to a Commission meeting to speak to the Commission about this project.

A1

DEVELOPMENT PERMIT APPLICATION H/F/2015-2016/090
Alexandru Andrus
Part Lot 22, Concession 7
Town of Halton Hills Halton Region

PROPOSAL:

To recognize the unauthorized construction of a minor driveway expansion and associated fill placement (approximately 20 cubic metres), on a 0.25 ha (0.63 ac) lot.

RECOMMENDATION:

The proposal be approved subject to Conditions.
Note: Bohdan Wynnycky, NEC Manager, reviewed the staff report and Michael Baran, NEC Planner, were present to answer questions.

Moved By: Little
Seconded By: Elgar

“That the Commission accept the staff recommendation with the following Conditions.”

CONDITIONS OF APPROVAL

1. Non-fulfilment 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 representative 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 licence, certificate, permit or other similar permission relating to development shall be issued or be considered to be in force unless a Development Permit is in effect.

4. The Development Permit shall expire three years from its date of issuance unless the development has been completed.

5. Development shall take place only in accordance with the site plan and development permit application submitted (except where special conditions are to apply as noted below).

6. No grading of the existing contours of the lot in the area of the development is permitted, with the exception of that which is required to recognize the construction of a minor driveway expansion and associated fill placement.

7. No trees other than dead or diseased trees shall be cut or removed from the lot in the area of the development except those absolutely necessary to recognize the construction of a minor driveway expansion and associated fill placement.

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.

9. All exposed areas resulting from construction shall be stabilized with suitable ground cover (e.g., mulch, seed) immediately upon completion of the construction.
10. The owner/applicant shall address any requirements related to municipal Site Alteration By-law 10-119 to the satisfaction of the Town of Halton Hills

Note/Advisory:

The Regional Municipality of Halton advises that the entire property is identified as having archaeological potential. Although an archaeological assessment is not required by Halton Region, the proponent is cautioned that during development activities, should archaeological materials be found on the property, the Ontario Ministry of Tourism and Culture and Sport should be notified immediately (416-212-8886 or archaeology@ontario.ca). In the event that human remains are encountered during construction, the proponent should immediately contact the appropriate authorities (police or coroner) and all soil disturbance must stop to allow the authorities to investigate and the Registrar of Cemeteries to be consulted.

Motion Carried

D1 SUB # 9591

REQUEST FOR DELEGATION
Cootes to Escarpment EcoPark System

Peter Kelly, Coordinator of the Cootes to Escarpment EcoPark System, has requested to make a delegation to the Niagara Escarpment Commission on the vision and mission of the Cootes to Escarpment EcoPark initiative.

The Cootes to Escarpment EcoPark System is a collaborative initiative on nine local government and non-profit organizations in the Burlington-Hamilton area. The Cootes to Escarpment area is approximately 3,440 hectares (8,500 acres) in size and is comprised of both public and private lands.

NEC staff has been engaged in this initiative for a number of years and provide representation on the Stakeholder Advisory Committee. The Ministry of Natural Resources and Forestry also has representation on the Stakeholder Advisory Committee and provides technical support to management planning as the EcoPark management plans are being developed based on the NEPOSS model and using the NEPOSS Manual as guidance.

RECOMMENDATION:

That the Commission receive a delegation from the Cootes to Escarpment EcoPark System representatives at its May 19, 2016 Commission meeting.

Note: Lisa Grbinicek, Senior Strategic Advisor, reviewed the staff report and answered questions.
Moved By: Beattie
Seconded By: Borodczak

“That the Commission accept the staff recommendation.”

Motion Carried

C2 SUB # 9590

INFORMATION REPORT
Business Arising from Previous Minutes
Delegation of Authority for Development Permit Applications

BACKGROUND:

At the March 17, 2016 Commission meeting, during the review of the G1 package (Directors Approvals), a Commissioner requested that some background information be provided respecting a motion made at a past Commission meeting regarding Director’s Approvals in the Escarpment Natural Area. The Commissioner recalled that a motion had been made that all Development Permit Applications in the Escarpment Natural Area should be brought to the Commission for a decision. Furthermore, the Commissioner also recalled that a Development Permit Application (possibly the same Application), had been brought to the Commission for a decision and was deferred, but was subsequently approved through a Director’s Approval rather than coming back to the Commission for a decision. The Commissioner’s recollection was that there was also a motion made that all Commission deferrals were to be returned to the Commission for a decision. A request was made for staff to look into the previous meeting minutes and confirm the outcome of these motions.

CONCLUSIONS:

Development Permit Applications in the Escarpment Natural Area will continue to be processed as Director’s Approvals, subject to meeting the conditions outlined in the Delegation of Authority issued by the Minister. The Minister is the only one who can revise the Delegation of Authority.

Development Permit Applications that do not meet the conditions for Director’s Approvals will continue to go before the Commission. In such cases where the Commission defers the Application, the Application will be brought back to the Commission at a later date for a final decision.

Note: Lisa Grbinicek, Senior Strategic Advisor, reviewed the information report and answered questions.
“That the Commission receive the information report.”

Motion Carried

NOTE: The Commission was satisfied that this discussion answered both questions. No future discussion on either matter is required.

A2

ADDENDUM REPORT
DEVELOPMENT PERMIT APPLICATION W/S/2015-2016/177
Empire (Red Hill) Ltd.
Glover Mountain Road
Part Lot 27, Concession 5
City of Hamilton

ISSUE:
At the February 18, 2016 Commission meeting, the NEC approved the subject application without any conditions of approval as none had been drafted by staff and additional time would be required to consider appropriate conditions to accompany this decision.

COMMENTS:
The recommended conditions include conditions of approval appropriate to the scope and sensitivity of work involved with this site and project. The applicant’s agent in his submissions to the Commission provided specific assurances in response to concerns of impacts to the natural environment which had been raised in the application review. Condition 14 provides for the Commission to receive feedback on the performance of the stormwater management system.

RECOMMENDATION:
That the draft Conditions be approved.

Note: Martin Kilian, NEC Planner, reviewed the staff report and answered questions. Pascal Monat, Manager, Land Services, Empire (Red Hill) Ltd, and George Zajac, Senior Planner, Armstrong Planning, were present and answered questions.
"That the Commission reluctantly approve the following Conditions with two changes to Conditions 13 and 14. Condition 13 should include reference to the Ministry of the Environment and Climate Change and the monitoring period in Condition 14 is to be amended to five years."

Pascal Monat, Empire (Red Hill) Ltd.

CONDITIONS OF APPROVAL

1. Non-fulfilment 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 representative on the site inspection(s) who possess expert or special knowledge related to the conditions of the Development Permit.

3. No building permit or other licence, certificate, permit or other similar permission relating to development shall be issued or be considered to be in force unless a Development Permit is in effect.

4. This Development Permit shall expire three (3) years from its date of issuance unless the development has been completed.

5. Development shall take place only in accordance with the site plan and development permit application submitted, and in accordance with the following conditions.

6. **Prior to the issuance of a Development Permit by the Niagara Escarpment Commission**, an accurate and detailed Final Site Plan shall be submitted for the approval of the Niagara Escarpment Commission. The Plan shall include but not be limited to the following:

   a) All drawings submitted must be drawn to scale (bar scale shown) and be dated (revisions as well);
   b) An accurate delineation of the approved development envelope with temporary fencing;
   c) The accurate location of all structures, storm water management system and permanent access or temporary haul routes, and the extent of all disturbed areas associated with excavation or fill placement within the development envelope;
   d) Erosion and sediment control measures;
Condition 6 continued:

e) Surveyed location and inventory of vegetation to be preserved and protection measures, and identification of any trees to be removed and trees to be preserved;
f) Planting layout in accordance with Condition #8.

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.

7. **Prior to the issuance of a Development Permit by the Niagara Escarpment Commission**, a **Final Vegetation Preservation Plan** shall be prepared by a qualified expert, for the approval of the City of Hamilton, the Hamilton Conservation Authority and the Niagara Escarpment Commission. The Plan shall address vegetation preservation requirements in accordance with the recommendations of the approved Environmental Impact Statement and shall include but not be limited to a detailed inventory, assessment, protection and management measures, and the following stipulations shall apply:

a) Prior to commencement of any construction the protective fencing shall be installed and inspected by the consulting expert and a letter confirming the same provided to the Niagara Escarpment Commission.

b) Any vegetation noted for preservation and damaged from the construction process shall be reported and replaced; trees150mm and over DBH (diameter breast height) shall be replaced on a per caliper basis. Replacement shall be to the satisfaction of the Niagara Escarpment Commission.

c) Subsequent to the completion of the works, including mitigation and management, a letter certifying the work has been completed in accordance with the approved plan shall be provided to the Niagara Escarpment Commission by the consulting expert.

Once approved, the approved **Vegetation Preservation Plan** shall form part of the Development Permit.

8. **Prior to the issuance of a Development Permit by the Niagara Escarpment Commission**, a **Final Landscape Plan** shall be prepared by a qualified expert, for Niagara Escarpment Commission approval. The Plan shall address all landscape requirements associated with screening and mitigation as well as associated details, and the following stipulations shall apply:

a) Pedestrian access to the existing trail system and, if required, a temporary route during construction shall be incorporated.
Condition 8 continued:

b) All new tree and shrub species shall be native to Ontario. All plant material shall be sourced from local plant nurseries; bush dug plant material is not acceptable.

c) 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.

d) 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.

e) 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 the consulting expert.

The approved **Landscape Plan** shall form part of the Development Permit.

9. Development shall incorporate the mitigation measures recommended by the Scoped Environmental Impact Statement prepared by MMM Group Limited (August 2015) and any additional recommendations supporting the fulfilment of Condition 7, including the Karst Mitigation Plan recommendations addressing the design of the storm sewer outfall system.

10. **Prior to commencement of development**, the City of Hamilton shall confirm to the Niagara Escarpment Commission that all matters relating to the applicant’s Environmental Impact Statement have been addressed to the City’s satisfaction.


12. All erosion and sediment control measures (including silt fencing) recommended to be installed under Condition 8 shall be maintained to encompass all construction and grading activities throughout the construction process, until all disturbed areas have been re-vegetated.

13. The design, construction, and operation of this approved stormwater management facility shall be in accordance with the Stormwater Management Report and the Operations & Maintenance Manual for Red Hill Phase 1 prepared by Urbantech West and approved by the City of Hamilton and the Ministry of the Environment and Climate Change, and shall satisfy Provincial standards for water quality and quantity controls including the maintenance of pre-development flows.
14. Within one year from the commencement of operation of the approved stormwater management facility, the applicant shall submit to the Niagara Escarpment Commission, in consultation with the City of Hamilton, Hamilton Conservation Authority, and/or the Ministry of the Environment and Climate Change, a monitoring report of the performance of the system with respect to whether or not the water quality and water quantity controls required under Condition 13 are being achieved, and the applicant shall submit two additional reports for each of the next five years for the same purpose, including in each of these reports monitoring data from the spring and autumn of each year, to the satisfaction of the Commission.

15. This conditional approval expires one year from the date of confirmation of the decision to approve the Development Permit application. All conditions required to be fulfilled prior to the issuance of the Development Permit must be fulfilled before the expiry date or the Development Permit will not be issued. (Note: The Niagara Escarpment Commission requires a reasonable time period to review the information required by Conditions 6, 7, and 8).

NOTE:

1. This Development Permit does not limit the need for the requirements of any other approval, license or certificate under any statute (e.g. Conservation Authorities Act, Ontario Heritage Act, Endangered Species Act, Ontario Water Resources Act, Highway Traffic Act, Electricity Act, Occupational Health and Safety Act).

Motion Carried

B1

2nd DEFERRAL REQUEST
DEVELOPMENT PERMIT APPLICATION H/R/2013-2014/197
Emshih Developments Inc.
Part Lots 3 & 4, Concession 2 EF
City of Burlington Halton Region

PROPOSAL:

To construct a 2 storey, ± 970 sq m (± 10,451 sq ft) second dwelling, (including attached garage) at a maximum height of ± 10.46 m (± 34.3 ft), a ± 85 sq m (± 914 sq ft), swimming pool, a ± 60 sq m (± 641 sq ft), pool cabana at a maximum height of ± 7.62 m (± 25 ft), an on-site sewage treatment system and driveway extension, on a 30.2 ha (74.6 ac) existing lot.
Notes:

1) Existing on-site heritage structures (dwelling, barn and accessory building) are to be retained (an existing swimming pool and tennis court would be removed).
2) Only the approximate north 8.1 ha (20 acres) portion of the property is located within the NEP/Development Control Areas and subject to this application.
3) Registration of an existing heritage agreement is pending.

Note: Michael Baran, NEC Planner, reviewed the deferral request and answered questions.

M769R9/04-2016

Moved By: Little
Seconded By: Horner

“That the Commission grant the Applicant a second deferral for a six month period with occasional updates from staff. However, if the studies do not commence by then the staff report is to return to the Commission for a decision.”

Motion Carried

Broke for Lunch: 11:50 a.m.
Reconvened: 12:50 p.m.

PRESENTATION – NEP Review, Work Plan and Next Steps

Kim Peters, (Acting) Manager, spoke briefly to the Commission about what is expected to take place during Phase 2 of the 2015 Co-ordinated Land Use Planning Review. It is expected that there will be a 90 day public consultation phase once the start date has been announced. As the Niagara Escarpment Commission is to consult with the public regarding the proposed changes to the Niagara Escarpment Plan (NEP), selected staff will be participating in all the public meetings and technical briefings that take place in the NEP area. Once the consultation phase is complete, staff will collect all the comments and will provide the Commission with an analysis of the comments and make recommendations on the proposed changes to the NEP. The Commission’s final recommendations will be submitted to the Ministry of Natural Resources and Forestry. The Niagara Escarpment Planning and Development Act was amended so that hearings are no longer a mandatory part of a plan review, but can still be held at the discretion of the Minister.
The burden on staff time was discussed and the Director advised that there is a plan in place to support and assist staff with the extra work that will be generated. The Commission was advised that the next Policy meeting date will be set once staff has been advised of the date for Phase 2 to begin. The Commission’s role is to listen to the comments received and not to take positions on the government’s proposed changes until after comments have been received and analyzed.

INFORMATION REPORTS – G and H Packages

Moved By: Elgar
Seconded By: Beattie

“That the Commission receive the Deferred Items Chart and the ‘G’ and “H” packages.”

Motion Carried

DISCUSSION

The Commission discussed a few of the items in the NEC Appeals and Hearings Information Chart (G2). There was a discussion regarding the danger of setting precedents and that the Commission should be cautious and wait until after the Plan Review to make decisions that could be precedent setting. As there is a lot of information to review on the morning of the Commission meeting, staff was asked to provide the Director’s Report and Plan Amendment review (H1 and H2) documents in the G package to give the Commission more time to review in advance of the meeting.

The Director gave a brief overview of the Fourth World Congress of Biosphere Reserves that took place in Lima Peru (G7 and H1). The event was by invitation only. The primary purpose was to review, comment and endorse a new action plan for the World Network of Biosphere Reserves that will ensure biosphere reserves are working toward shared goals. In addition, it was an opportunity to network, share information, and case studies such as the Niagara Escarpment Biosphere Reserve’s experience in implementing the UNESCO Brand and Story toolkit pilot, where our vision is: “A place where people share a way of living with nature that builds a future we are proud of”. There was a discussion about inviting Mr. Larry McDermott to speak to the Commission about the First Nations presentation that he made at the World Congress. The Director will contact him to arrange a presentation.

Commissioner Baty announced that the Niagara Peninsula Conservation Authority is working with partners in the State of New York to have the Niagara River corridor designated as a trans-boundary site of international importance under the Ramsar Convention on Wetlands.
The Hearing Officer’s report on the hearing for G/R/2015-2016/9077 (G3) which was a Commission refusal to construct a dwelling on a lot that was deemed a separate lot by a surveyor because a navigable river runs through the 50 acre property. The NEC’s lot creation policies do not recognize such lots. The Hearing Officer’s decision was considered a very good decision.

IN CAMERA SESSION

M769R11/04-2016
Moved By: Davidson
Seconded By: McQueen
“That the Commission move in-camera to receive legal advice.”
Motion Carried

M769R12/04-2016
Moved By: Beattie
Seconded By: Borodczak
“That the Commission move out-of-camera.”
Motion Carried

M769R13/04-2016
Moved By: Borodczak
Seconded By: Horner
“That the Commission endorse the letter to Brock University in response to their presentation at the February 18, 2016 Commission meeting.”
Motion Carried

NEW BUSINESS

The Chair advised the Commission that there will be an announcement coming in the near future regarding a presentation to thank the Commissioners whose terms have expired over the last couple of years.

The Commission was pleased with the reappointments of Commissioner Alexander, Beattie, Little, Louis and Miller for another year. However, the Commission would like to see future appointments staggered to avoid concerns with meeting quorum while waiting for reappointments. The Chair advised that he will address this concern with the Minister at the next meeting with the Minister. The Commission also discussed the consideration of appointing an aboriginal public-at-large member.
The Commission asked for a clarification on the rehabilitation process and the process for surrendering an aggregate licence. The Director agreed that a presentation / discussion on aggregate licences and rehabilitation could be arranged with MNRF. New Commissioners would appreciate a learning session on aggregate. The Chair noted that the Queenston Quarry is not a standard quarry operation.

**ADJOURNMENT**

**M769R14/04-2016**  
*Moved By: Elgar*

“That this meeting be adjourned.”

*Motion Carried*

**Time of Adjournment:** 2:00 p.m.

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Don Scott  
Chair