MINUTES OF M791/10-2018
NIAGARA ESCARPMENT COMMISSION
GEORGETOWN, ONTARIO
October 25, 2018


Regrets: None.


Also Present: R. Pineo, Niagara Escarpment Program Team Leader, (MNRF), S. Cooper, Partnership Liaison and Advisor, Natural Heritage Section (MNRF), R. Patrick, President, C.O.N.E.

Meeting called to order: 9:30 a.m.

Chair Russ Powers presided.

Introductions:

The Chair welcomed the Commissioners and members of the public to the meeting.

APPROVAL OF MINUTES – M790/09-2018

M791R1/10-2018 Moved By: Baty
Seconded By: Horner

“That the Commission accept the Commission Minutes of September 20, 2018 as amended on page 14.”

Motion Carried
CONFLICTS OF INTEREST – Declaration of Conflicts of Interest

Commissioner Gilhespy declared a conflict with Agenda Items A4 and A7.

Commissioner Mackenzie declared a conflict with Agenda Item A6.

Debbie Ramsay, Manager, declared a conflict with Agenda Item A5.

The Chair reminded Commissioners to not participate in conversation or vote on any items where they have a conflict.

MOTION FOR SPEAKERS

M791R2/10-2018                Moved By:       Pim
                                   Seconded By:   McQueen

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

Motion Carried

A1

DEVELOPMENT PERMIT APPLICATION H/R/2017-2018/061
Azra Bowron
Part Lot 3, Concession 5, NS
City of Burlington, Region of Halton (4337 No. 4 Side Road)

PROPOSAL:

To construct a 2 storey, + 278.7 sq m (± 3000 sq ft) single dwelling (including attached garage), with a maximum height of ± 11.0 m (± 36 ft), a private sewage disposal system, a geothermal system (horizontal closed-loop), and a driveway extension, on an existing 4.13 ha (10.2 ac) vacant lot.

Note: Primary access to the property is by right-of-way, over an existing driveway that extends across other private properties.

RECOMMENDATION:

That the proposals be refused for the following reason:

REASONS FOR REFUSAL

H/R/2017-2018/061

1. The proposed development conflicts with the General Development Criterion in Part 2.2.2 of the Niagara Escarpment Plan.
2. The proposed development conflicts with Section 3.1.2 c) of the Provincial Policy Statement.

3. Conservation Halton staff have not taken a final position on the application due to concerns regarding the property access flooding hazard, conflict with the PPS, and the need for a revised site plan to address natural heritage and natural hazard constraints/ setbacks.

4. Region of Halton staff have not taken a final position on the application, pending the resolution of the concerns and issues raised by Conservation Halton and the completion/review of an Environmental Impact Assessment.

**M791R3/10-2018**

*Moved By: McKinlay*

*Seconded By: Downey*

"Whereas potential safety access to the lot is an outstanding issue, be it resolved that the matter be deferred pending provisions of a community emergency management plan to the satisfaction of Conservation Halton, the City of Burlington, and the Region of Halton."

*Motion Carried*

**DISCUSSION**

The Commission inquired about alternative access points, emergency management plans, and if the Conservation Authority has mapped the flood plain.

Commissioner Baty asked if a bridge could be built over the flood plain area.

Commissioner McKinlay asked what differentiated this lot from the nearby populated lots and if it is being treated differently. The Planner advised that the lot does not meet Niagara Escarpment Plan development criteria policies.

Commissioner McQueen noted that the Beaver Valley Ski Club has similar flooding issues and the Commission has approved Development Permits regardless of the flood plain concerns.

Commissioner McKinlay advised that the Commission should not ignore the 100 year flood concern.

Commissioner Haswell asked if the Applicants had been advised of the flood plain issue prior to purchasing the land; the Planner advised that he met with the Applicant in advance of the purchase and advised of the potential constraints that may affect development of the lot, and the need to consult the conservation authority.

Commissioner Mausberg noted his support for the Application and did not support the deferral motion.
Note:

- Michael Baran, Senior Planner, presented and answered questions.
- Glen Wellings, Agent, presented and answered questions.

A2

DEVELOPMENT PERMIT APPLICATION H/S/2017-2018/471
Richard and Virginia McDole
Part Lot 2, Concession 3
Town of Milton, Region of Halton

PROPOSAL:

To install a 29 m (96 ft) Trylon Titan tower to connect to standard broadband internet (for personal use), on a 2 ha (5 ac) lot.

RECOMMENDATION:

That the Commission inform Industry, Science and Economic Development Canada that the NEC concurs with the tower location.

M791R4/10-2018

Moved By: McKinlay
Seconded By: Pim

“That the Application be deferred until the November 2018 meeting to allow staff to research the issue of the Commission’s jurisdiction in this matter.”

Motion Carried

DISCUSSION

The Commission asked if staff was supportive of the Applicant’s request for deferral; staff confirmed support of the request.

Note:

- Ruth Conard, Senior Planner, reviewed the staff report and answered questions.
- Donna Barclay, Neighbour, was present to answer questions.
- Richard and Virginia McDole were present to answer questions.
DEVELOPMENT PERMIT APPLICATION G/T/2017-2018/9003
Meaford & District Ridge Runner Snowmobile Club
Un-opened / Un-improved/maintained Road Allowance (3rd Line)
Lot 22 and 23, between Concession 2 and 3
Municipality of Grey Highlands (Euphrasia), County of Grey

PROPOSAL:

To install a 1.5 m diameter x 4.8 m long (5 ft x 16 ft) culvert within a watercourse along an open, un-maintained section of the 3rd Line between Concessions 2 and 3, Lots 22 and 23, to allow for year round crossing by the public, including Bruce Trail hikers, and as a dedicated trail route for the Snowmobile Club.

RECOMMENDATION:

That the proposal be **refused** for the following reasons:

1. a) Motorized trails (e.g., dedicated snowmobile route) is not a permitted use within the Escarpment Natural Area designation (Part 1.3).

   b) Recreation uses (e.g., dedicated snowmobile route), other than those associated with the Bruce Trail, and with uses within Parks and Open Space System Master/Management Plans not in conflict with the NEP, are not a permitted use within the Escarpment Natural Area designation (Part 1.3).

   c) The application does not satisfy the General Development Criteria (Part 2.2), the Water Resources Development Criteria (Part 2.6), the Natural Heritage Development Criteria, the Recreation Development Criteria (Part 2.11), and, the Infrastructure Development Criteria (Part 2.12).

   d) The application does not meet the Objectives of the Escarpment Natural Area designation (Part 1.3.1).

2. The recommendation for refusal does not preclude the Beaver Valley Bruce Trail Club from submitting an application for a pedestrian footbridge crossing.

**Note:**

- Rick Watt, Senior Planning Coordinator, reviewed the staff report and answered questions.
“Whereas the stream is regularly crossed by motorized vehicles as an unopened road allowance, with potential negative impact on the stream ecosystem, and whereas the application before the Commission does not address environmental issues and design criteria, be it resolved that the Application be deferred for one month to provide community stakeholders an opportunity to advance or withdraw the application.”

At the Request of Commissioner Pim, the vote was recorded.

For the Motion: McKinlay
Greig
McQueen
VanderBeek

Seconded By: McQueen

Against the Motion: Baty
Burton
Carr
Gilhespy
Haswell
Horner
Mackenzie
Mausberg
Pim
Robertson

Motion Defeated

“That the Commission approve the Staff Recommendation.”

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

For the Motion: Haswell
Burton
Carr
Haswell
Horner
Pim
Robertson

Against the Motion: Baty
Gilhespy
Greig
Mackenzie
Mausberg
McKinlay
McQueen
VanderBeek

Motion Defeated
“That the Commission permit the installation of the culvert for erosion control purposes with conditions provided by staff in consultation with related authorities, without recognizing the road and crossing as a dedicated snowmobile trail.”

Motion Withdrawn

“That the Proposal be approved in principle, and that staff report back on the appropriate Conditions of Approval at the next Commission meeting.”

At the Request of Commissioner Pim, the vote was recorded.

For the Motion: Mausberg
Against the Motion: Burton, Gilhespy, Haswell, Pim, Robertson

Motion Carried

DISCUSSION

The Commission discussed the nature of the area proposed for development, asking if it is a trail, a road, or an unopened, unmaintained road allowance, and how this Application differs from the Application that was refused by the Niagara Escarpment Hearing Office.

Commissioner Haswell noted that the Proposal is simply not a permitted use.

Commissioner McQueen noted that the trail has existed since 1997, and read the Affidavit from the men who maintained the trail from 1997 to 2004.

Commissioner Haswell noted that if the Commission approves the Application, it would set a precedent, and asked if the proper process is for the Applicants to submit a Plan Amendment Application.
Commissioner Mausberg asked if a culvert could be installed to protect the water without it being an open road allowance. Commissioner McQueen noted that the cost to the City would be very high.

Commissioner McKinlay asked if any unopened roads be designated Escarpment Protection, not Escarpment Natural. It could be considered during the next Plan Review.

A10

DEVELOPMENT PERMIT APPLICATION G/F/2016-2017/9182
Boulter Estates Ltd.
Part Lot 5, Jones Range; 501365 Grey Rd 1; 420362000622500
Township of Georgian Bluffs (Keppel), County of Grey

PROPOSAL:
To recognize the importation of fill and to permit additional fill to be imported, to be used to create a flat access/staging area around the driveshed, grade the fill to the north and west to create a stepped slope away from the building, to install a retaining wall on the eastern boundary of the fill area, to import topsoil and gravel to finish the areas on a 4.2 ha (10.4 ac) existing lot.

RECOMMENDATION:
The application should 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 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. Only in extenuating circumstances will non-native species be considered. Native plant material should be sourced from local plant nurseries when available; bush dug plant material is not acceptable.

7. The approved Final Site, Grading and Landscape Plan (Map 3 and Map 3 Detail) shall form the Site Plan referred to in Condition #1 and development shall proceed in accordance with the details of the approved Final Site, Grading and Landscape Plan.
   a. Planting and rehabilitation of all disturbed areas shall be completed by the end of the first growing season following the completion of the grading operations to the satisfaction of the NEC.
   b. All plant materials shall be guaranteed for 24 months following installation. All plant material found during this time to be dead or dying must be replaced in accordance with the original approval.

8. The fill, topsoil and aggregate material approved for importation under this Development Permit shall be obtained from a reputable supplier/retailer and shall conform to Table 1 Criteria under Part XV.1 of the Environmental Protection Act. Evidence of material source and quality shall be provided to the Niagara Escarpment Commission upon purchase.

9. No tree clearing, mowing or initial site alteration shall occur on or between April 1st and August 15th of any given year to ensure protection of grassland bird breeding habitat.

10. Sediment and erosion control fencing shall be installed as indicated on the Final Site, Grading and Landscape Plan and maintained until such time that site development is complete and disturbed areas are graded, seeded down and 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.
Advisory Notes:

a) This Development Permit does not limit the need for or the requirements of any other applicable approval, licence or certificate under any statute (e.g., 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.

Note:

- Amy Cann, Senior Planner, reviewed the staff report and answered questions.

M791R9/10-2018

Moved By: Mausberg
Seconded By: McQueen

“That the Commission accept the staff recommendation.”

Motion Carried

DISCUSSION

The Commission asked how staff became aware of the fill importation; staff noted the fill during inspection of the area.

Commissioner Mausberg asked why the Application required a Commission decision. The Manager advised that there is a history of non-compliance with the property.

Commissioner McKinlay asked how staff determined that there is an agricultural operation on the property. Staff advised that the agricultural operation was confirmed by the outbuilding contents and in discussion with the property owner who owns other land in the area.

Commissioner Pim asked how many entrances there are to the property, to which staff advised that an entrance off Galloway Road was part of the original application but was no longer being proposed. Commissioner Pim also asked why the driveshed was not fully accessible. Staff described that the north door had a drop off of approximately 2-3 metres and an apron was never constructed, leaving the driveshed door useless.

Commissioner McQueen requested clarification about whether or not farmers were allowed to import gravel as part of farming operations. Planning staff advised that this type of work likely requires a Development Permit regardless of the applicant.
BACKGROUND:

Development Permit Application W/R/2017-2018/371 was received in January of 2018 to construct a 2 storey, ± 369.7 sq. m (± 3,980 sq. ft.) single dwelling (including an attached garage) with a maximum height to peak of ± 9.45 m (± 31 ft.), a ± 15.7 sq. m (± 170 sq. ft.) porch, install a private septic system and a private well, and construct a new driveway on a vacant 0.31 ha (0.77 ac.) lot.

Development Permit Application W/R/2017-2018/464 was received in March of 2018 to demolish an existing 1 story single dwelling, and construct a new 2 storey, ± 436.6 sq. m (± 4,700 sq. ft.) single dwelling having a maximum height to peak of ± 9.6 m (± 31.5 ft.), install a ± 35.7 sq. m (± 384 sq. ft.) swimming pool, construct a new driveway, and install a new well and private sewage disposal system on a 0.4 ha (0.95 ac.) lot.

September 20, 2018: NEC staff presented the above applications to the Commission, recommending refusal of both applications as the properties do not qualify as existing lots of record, and the proposed development therefore conflicts with Part 2.2.3 of the Niagara Escarpment Plan (NEP).

The Commission supported a motion to endorse approval of the above mentioned Development Permit Applications, and direct Staff to present recommended conditions of approval at the next meeting of the Commission on October 25th, 2018.

October 25, 2018: Staff has not changed their professional planning advice to the Commission that the two development proposals, as submitted, do not meet Part 2.2.3 of the NEP. Notwithstanding staff’s professional planning opinion on this matter, as per the Commission’s direction at the September 20th, 2018 meeting, staff has drafted the attached Conditions of Approval as a technical exercise, providing their best planning advice under the circumstances where the development is approved.

The Conditions of Approval for W/R/2017-2018/371 were presented. The conditions have been crafted to ensure that the development proceeds in accordance with the requirements of the City of Hamilton as stated to NEC staff, as well as the following applicable Development Criteria within Part 2 of the NEP: Part 2.6 (Development Affecting Water Resources), Part 2.7 (Development Affecting Natural Heritage), Part 2.8 (Agriculture), and Part 2.10 (Cultural Heritage).
Condition 7 is required to be fulfilled prior to the issuance of a Development Permit since the final locations of the proposed well and septic system have yet to be determined.

The Conditions of Approval for W/R/2017-2018/464 were presented. The conditions have been crafted to ensure that the development proceeds in accordance with the requirements of the City of Hamilton as stated to NEC staff, as well as the following applicable Development Criteria within Part 2 of the NEP: Part 2.6 (Development Affecting Water Resources), Part 2.7 (Development Affecting Natural Heritage), and Part 2.8 (Agriculture).

As with the related application discussed above, Condition # 7 is required to be fulfilled prior to the issuance of a Development Permit.

**Note:** Fulfillment of the recommended Conditions of Approval would not bring the proposed development into conformity with Part 2.2.3 of the NEP.

**Note:**
- Jim Avram, Senior Planner, reviewed the staff report and answered questions.
- Pam and Mike Bottos, Applicants, were present and answered questions.

**M791R10/10-2018**

_Moved By:_ Mausberg  
_Seconded By:_ Mackenzie

“That the Commission approve the draft Conditions of Approval.”

At the Request of Commissioner Pim, the vote was recorded.

_For the Motion:_ Baty, Burton, Carr, Downey, Gilhespy, Greig, Haswell, Horner, Mackenzie, Mausberg, McKinlay, McQueen, VanderBeek

_Against the Motion:_ Pim, Robertson

*Motion Carried*
DISCUSSION

Commissioner Mausberg asked how future Development Permit Applications would be processed if these Applications are approved. Staff advised that the same NEP policies will apply, and no development is permitted.

Commissioner McKinlay asked if the NEC would incur any liability, and if the properties could qualify for mortgages.

Broke for lunch: 12:15 p.m.
Reconvened: 1:00 p.m.

Chair Powers read a declaration on behalf of the Niagara Escarpment Commission recognizing the Centenary of the Canadian Institute of Planners taking place in 2019.

PRESENTATION

NEPOSS COUNCIL UPDATE

BACKGROUND

Eric Baldin, interim Chair of the NEPOSS Council provided the Commission with an update on the activities of NEPOSS Council, including the land securement strategy and plans to update the NEPOSS Planning Manual. The challenges and opportunities facing NEPOSS agencies were also highlighted, including the need for additional infrastructure and programming to accommodate high rates of visitation within the NEPOSS. The high cost and complexity of the NEPOSS master/management planning process was also brought to the Commission’s attention. Opportunities identified included reviewing the NEPOSS Planning Manual so as to streamline the planning process and clarifying development permit exemptions for NEPOSS agencies under Ontario Regulation 828/90. The Pathway to Canada Target One (i.e., Canada’s biodiversity target to protect 17% of Canada’s of land base by 2020) was identified as an opportunity to protect more of the Escarpment by bringing additional lands into the NEPOSS.

Note:

• Kim Peters, Senior Strategic Advisor, presented and answered questions.
• Eric Baldin, NEPOSS Council Chair, presented and answered questions.
“That the Commission receive the information.”

Motion Carried

DISCUSSION

Commissioner Gilhespy noted that lands acquired by the Bruce Trail Conservancy are not included in the statistics.

The Commission discussed how municipalities acquire public land, and how public/private partnerships could help.

Commissioner VanderBeek noted that visitor impact to Webster’s Falls and the surrounding neighbourhood continues to be significant and asked if NEPOSS was able to assist.

Commissioner Pim asked how many NEPOSS properties have a management plan, and if agencies are able to share resources.

A5

DEVELOPMENT PERMIT APPLICATION W/R/2016-2017/118
Ahmed Bilal
Part Lot 36, Concession 1
City of Hamilton (Former Town of Ancaster)

PROPOSAL:

To demolish a ±117.1 sq. m (±1,259.5 sq. ft.) dwelling, a small shed, and a ±42.67 sq. m (±459.30 sq. ft.) detached garage and to construct a 2 storey, ± 838.3 sq. m (±9,024 sq. ft.) single dwelling (includes an attached garage and walkout basement level) with a maximum height of ±12.5 m (±41.0 ft.), undertake associated site alterations for the driveway access and retaining wall construction, and install a new septic system on a ±0.7 hectare (±1.8 acre) lot.

Note: The applicant has revised the development proposal, reducing both the height and total floor area of the proposed dwelling from the original size of 15 m (49.2 ft.), and ± 873.1 sq. m (±9,394 sq. ft.) respectively.

RECOMMENDATION:

That the Application be approved subject to the following Conditions:
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. Only in extenuating circumstances will non-native species be considered. Native plant material should be sourced from local plant nurseries when available; bush dug plant material is not acceptable.

7. **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, be dated (revisions as well) and denote the relevant consultant;

   b) An accurate delineation of the approved development envelope with temporary fencing;

   c) 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.;

   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) Surveyed location and inventory of vegetation to be preserved and removed as well as all protection measures;

h) Planting layout in accordance with Condition # 9. Areas of supplemental tree planting including quantities, species and size;

i) 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.

8. **Prior to the issuance of a Development Permit by the Niagara Escarpment Commission**, a **Final Vegetation Preservation Plan** shall be prepared by a qualified person, for the approval of the Niagara Escarpment Commission and the City of Hamilton. The Plan shall address vegetation preservation requirements and shall include but not be limited to a detailed inventory, assessment, protection and management measures in accordance with the standard practices of the implementing authority. **Stipulations:**

   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 implementing authority by a qualified person.

The approved **Vegetation Preservation 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 Vegetation Preservation Plan.
9. 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. 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.

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

11. Prior to the commencement of any Development, the Applicant shall install and maintain non-woven erosion and sediment control fencing (exclusionary fencing) to enclose the development area identified on the approved Site Plan, in order to prevent sediment and deleterious substances from entering any adjacent woodlands, ponds or wetlands associated with the adjacent identified habitat. The fencing will also prevent any salamanders from entering the work area. The exclusionary fence shall be buried 10 – 20 cm to prevent salamanders from potentially burrowing underneath it, and the fencing height above ground shall be a minimum of 30 cm. The fencing shall be maintained in effective working order until all disturbed soils have been stabilized and site restoration has been completed. 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.

12. The exclusionary fencing prescribed in Condition # 11 shall be installed between November 1st and March 1st, to prevent any salamanders from becoming trapped within the work area.

13. All waste materials generated from the demolition shall be completely removed from the property (e.g., taken to an approved landfill site, salvage/reclamation facility, re-used/recycled elsewhere) and not otherwise stored or buried on-site. All disturbed areas shall be immediately stabilized/rehabilitated as per the approved Site Plan (Condition # 1).

14. The proposed single dwelling shall not contain more than one dwelling unit.

15. This conditional approval expires one (1) year from the date of confirmation of the decision to approve the Development Permit application. Conditions # 7, 8, 9 and 10 of this conditional approval shall be fulfilled before the expiry date.

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.

Note:

- Jim Avram, Senior Planner, reviewed the staff report and answered questions.
- Linda Laflamme, Landscape Architect answered questions.
- Tim Bermingham, Concerned Neighbour, presented and answered questions on behalf of the Dundas Valley Residents Association.
- Paul Marshall, Marshall Kirewskie, Counsel for Area Resident, presented and answered questions.
- Stephen Fraser, A. J. Clarke and Associates Ltd., Agent for the Applicant, presented and answered questions.
- Ahmed Bilal, Applicant, presented and answered questions.
M791R12/10-2018
Moved By: McQueen
Seconded By: Gilhespy

“That the proposal be deferred to provide staff time to bring back a comparison of this application to a similar application that was refused by the Commission, to provide the Commission time to review the 2012 staff Policy paper on large dwellings, and review the relevant Development Permit Application for a large church sign for visual impact comparison.”

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

Motion Defeated

M791R13/10-2018
Moved By: McQueen
Seconded By: Gilhespy

“That the Commission accept the Staff recommendation.”

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

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

Motion Carried
DISCUSSION

The Commission discussed visual impact and if a Visual Impact Assessment was required, and a staff analysis on “monster homes” would be helpful.

Commissioner Baty asked how this Application differs from a previous similar Application that was refused, and requested staff bring back an analysis of the two Applications.

Commissioner McKinlay asked what defendable planning rationale the Commission can use to deny the development, and if this Application differs from other large houses that have been approved. He, Commissioner Downey and Commissioner Mackenzie noted that it is unfair to single this Application out.

Commissioner Mackenzie noted concern with cumulative impact allowing such large houses in the Dundas Valley, and with future accessory buildings. Staff noted that there are site constraints, and that other agency requirements would need to be met for any future development.

A6

DEVELOPMENT PERMIT APPLICATION W/L/2014-2015/279
Hamilton Conservation Authority c/o Matt Hall
Part Lots 41-50, Concession 1
City of Hamilton (former Town of Ancaster)

PROPOSAL:

To hold wedding ceremonies and similar events at the site of a designated cultural heritage structure known as the Hermitage Ruins, and construct a 5 vehicle gravel parking lot to facilitate such events within the Dundas Valley Conservation Area.

RECOMMENDATION:

That the application be approved, subject to the following conditions:

Conditions of Approval W/L/2014-2015/279

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 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. Only in extenuating circumstances will non-native species be considered. Native plant material should be sourced from local plant nurseries when available; bush dug plant material is not acceptable.

7. 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, be dated (revisions as well) and denote the relevant consultant;
   
   b) An accurate delineation of the approved development envelope with temporary fencing;
   
   c) The accurate location of the proposed parking lot, the areas designated for temporary structures, and the location of wedding ceremonies;
   
   d) The accurate location of all existing structures upon the site and the laneway within the development envelope showing setbacks from the property lines, watercourse, top/bottom of slope, wooded areas, etc.;
   
   e) Extent of all disturbed areas;
   
   f) 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;
   
   g) Exclusionary erosion and sediment control measures;
   
   h) Surveyed location and inventory of vegetation to be preserved as well as all protection measures.
8. **Prior to the issuance of a Development Permit by the Niagara Escarpment Commission**, a **Final Vegetation Preservation Plan** shall be prepared by a qualified person, for the approval of the Niagara Escarpment Commission and the City of Hamilton. The Plan shall address vegetation preservation requirements and shall include but not be limited to a detailed inventory, assessment, protection and management measures in accordance with the standard practices of the implementing authority. Stipulations:

   d) 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.

   e) Any vegetation noted for preservation and damaged from the construction process shall be reported and replaced; trees 150mm 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.

   f) 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 implementing authority by a qualified person.

   g) 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 Vegetation Preservation 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.

9. **Prior to the commencement of any Development**, the Applicant shall install and maintain non-woven erosion and sediment control fencing (exclusionary fencing) to enclose the development area identified on the approved Site Plan, in order to prevent sediment and deleterious substances from entering any adjacent woodlands, ponds or wetlands associated with the adjacent identified habitat. The fencing will also prevent any salamanders from entering the work area. The exclusionary fence shall be buried 10 – 20 cm to prevent salamanders from potentially burying underneath it, and the fencing height above ground shall be a minimum of 30 cm. The fencing shall be maintained in effective working order until all disturbed soils have been stabilized and site restoration has been completed. 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.

10. The exclusionary fencing prescribed in Condition # 9 shall be installed between October 31st and February 15th, to prevent any salamanders from becoming trapped within the work area.
11. Attendance at the events shall not exceed fifty (50) persons.

12. The events shall occur only during daylight hours and there shall be no lighting used within the site.

13. A maximum of one event may be held per week, between May 1st, and October 31st of any given year while the Development Permit is valid.

14. Events shall not occur for more than four (4) hours, including site set up and removal.

15. If decorations are to be used they shall not be fastened to the Hermitage Ruins structure in any way. Confetti or similar materials shall not be used for any event. All decorations must be completely removed from the site at the conclusion of an event.

16. All materials brought to the site to facilitate an event shall be removed at the event’s conclusion.

17. Vehicle travel to and from the dwelling accessed via the laneway on site shall not be restricted during the events, as shown on the approved Final Site Plan.

18. Vehicle traffic into the site generated by the events shall be limited to that required for preparation, removal of materials and to provide site access to individuals with disabilities.

19. This conditional approval expires one (1) year from the date of confirmation of the decision to approve the Development Permit application. Conditions # 7 and 8 of this conditional approval shall be fulfilled before the expiry date.

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 Heritage Act, Conservation Authorities Act, Endangered Species Act, etc.). The Niagara Escarpment Commission Development Permit is required prior to the issuance of any other applicable approval, licence or certificate.

b) If Jefferson Salamander or any other species at risk are observed, the Ministry of Natural Resources and Forestry, Guelph District Office, should be notified immediately at esa.guelph@ontario.ca.

Note:

- Jim Avram, Senior Planner, reviewed the staff report and answered questions.
- Matthew Hall, Agent, presented and answered questions.
Moved By: McKinlay
Seconded By: Robertson

“That the Commission accept the Staff recommendation.”

Motion Carried

NOTE: Commissioner Mausberg was not present and did not vote.

DISCUSSION

The Commission inquired where the parking lot would be, and if people with accessibility issues would be able to use it.

PROPOSED Niagara Escarpment Plan Amendment PD 212 17
Sinclair (Canning’s Falls)
Part Lots 12 and 13, Concessions 1 EHS
Town of Mono, County of Dufferin

PROPOSAL:
To amend the Niagara Escarpment Plan (NEP) by adding a special policy to apply to the subject property at 714148 1st Line EHS, Part Lots 12 & 13, Concession 1 EHS in the Town of Mono, County of Dufferin, to permit the creation of new lots beyond that which is supported by the lot creation policies of the NEP, and in doing so, facilitate the acquisition of significant conservation lands containing the Canning’s Falls Complex Area of Natural and Scientific Interest (also known as Scott’s Falls), by a public body for the purposes of securing the Bruce Trail corridor and conservation uses.

SUMMARY ANALYSIS:

The proposal supports the Objectives of the NEPDA and the NEP, namely; the protection of unique ecologic areas, providing adequate opportunities for outdoor recreation, to provide for adequate public access to the Niagara Escarpment; and to ensure that new development is compatible with the Purpose of the Plan. Once in ownership by a public body, the lands would become part of the NEPOSS. The NEPOSS strives to balance protection, conservation, and where appropriate, sustainable recreation to ensure that the Escarpment will be protected and enhanced as a substantially continuous natural environment for future generations.
The proposed amendment reflects a special set of site specific planning circumstances that if approved, would be beneficial from a public interest perspective. NEC staff has considered all of the comments received. No objections to the proposed amendment are standing therefore NEC staff is satisfied that no hearing is required.

**STAFF SUMMARY RECOMMENDATION:**

That the Commission endorse the Amendment and request that the Minister approve the Amendment pursuant to Section 10 (11) of the *Niagara Escarpment Planning and Development Act* (NEPDA).

**Note:**

- Lisa Grbinicek, Senior Strategic Advisor, reviewed the staff summary report and answered questions.
- Don Sinclair and Family, were present to answer questions.
- Glenn Wellings, Planning Consultant was present to answer questions
- Bruce Trail Conservancy was present to answer questions.

**M791R15/10-2018**

Moved By: McKinlay
Seconded By: Pim

“That the Commission accept the Staff recommendation.”

*Motion Carried*

**NOTE:** Commissioner Mausberg was not present and did not vote.

**DISCUSSION**

The Commission thanked the Applicants for providing the opportunity for the lands to be acquired by a public body.
DEVELOPMENT PERMIT APPLICATION S/A/2017-2018/9264
Wolfgang Zenker
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 proposals be refused for the following reason:

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:

- Rick Watt, Senior Planning Coordinator, to review the staff report and answer questions.
- Kristine Loft, LOFT Planning Inc., Consultant, to present and answer questions.
- Wolfgang Zenker, Applicant, will be present to answer questions.

M791R16/10-2018

Moved By: Downey
Seconded By: VanderBeek

“That the Commission support the Application in principle to convert an existing garage for the purpose of accommodating farm labour as a temporary use for 3 years, pending the appropriate Conditions of Approval to be developed by staff and presented at the next Commission meeting, as the Applicant has demonstrated that accommodation for farm labour is required to scale up the agricultural operation.”

Motion Carried
DISCUSSION

Commissioner Downey asked what criteria is used to determine when farm help is required, and how farmers are able to expand their operations without help in place.

The Commission commended the Applicant on the initiative on the Application.

Commissioner McQueen noted the need to review the policies respecting agriculture in the Escarpment Protection Area.

NOTE: Commissioner Mausberg was not present and did not vote.
Commissioner Haswell was not present and did not vote.

A7

STAFF REPORT
Cheltenham Badlands Master Plan

BACKGROUND:

Ontario Heritage Trust (OHT) prepared a Master Plan for the Cheltenham Badlands site to address many of the management challenges, including the impacts of high levels of visitation on the site. With increasing concerns about traffic congestion and pedestrian and cyclist safety on the roads surrounding the Badlands, the OHT made the decision to close the site to visitation in May 2015 until traffic and pedestrian safety enhancements could be addressed. The master planning exercise took more than ten years to complete, and engaged Indigenous and local communities, government agencies, academics, and stakeholder groups in an extensive consultation process.

The Master Plan contains management and operational policies to address the following issues: road safety along Olde Baseline Road; erosion from pedestrian, equestrian, and wheeled traffic on the Queenston shale feature and other areas of the site; and unauthorized use and vandalism of the site. The Master Plan proposes a network of formal trails, including accessible trails and boardwalks, to direct foot traffic and keep visitors off of the sensitive shale feature. Day-to-day management of the site will include having staff on site during peak demand times to supervise site usage. A permitting system will be developed by the OHT and Credit Valley Conservation to control limited special events and activities, like commercial photography, on the site. Ongoing site monitoring and an adaptive management approach will be employed to address invasive species, erosion, and unauthorized trail usage.

RECOMMENDATIONS:

1. That the Niagara Escarpment Commission endorse the Cheltenham Badlands Master Plan as it is consistent with the purpose and objectives of the Niagara Escarpment Plan and the objectives, principles and policies of the Niagara Escarpment Parks and Open Space System.
2. That the Ministry of Natural Resources and Forestry be informed of the Niagara Escarpment Commission’s endorsement, and that the Master Plan be forwarded to the Ministry for final approval.

Note:

- Kim Peters, Senior Strategic Advisor, reviewed the staff report and answered questions.
- Beth Hanna, Chief Executive Officer, Ontario Heritage Trust, presented and answered questions.

M791R17/10-2018

Moved By: Pim
Seconded By: Mackenzie

“That the Commission endorse the Cheltenham Badlands Master Plan and forward it to the Ministry of Natural Resources and Forestry for final approval.”

Motion Carried

DISCUSSION

The Commission commended the Ontario Heritage Trust (OHT) for all of the work that went into the Cheltenham Badlands Master Plan.

Commission McKinlay asked if erosion is being tracked; OHT confirmed that students from the University of Waterloo have been tracking the ecological succession, and the University of Toronto is engaged in ongoing monitoring of the erosion.

NOTE: Commissioner Mausberg was not present and did not vote. Commissioner Haswell was not present and did not vote.

C1

PRESENTATION REQUEST
Halton-Hamilton Source Protection Committee

BACKGROUND:

Bob Edmondson, Chair, of the Halton-Hamilton Source Protection Committee has requested permission to make a presentation before the Commission at the January 17, 2019 Niagara Escarpment Commission meeting.
The presentation would be on the Source Water Protection Program and how it relates to the Niagara Escarpment Plan as per the attached e-mail request.

**RECOMMENDATION:**

That the Commission accept the presentation request.

**Note:**

- Nancy Mott, Senior Strategic Advisor, available to answer questions.

**M791R18/10-2018**  
Moved By: Robertson  
Seconded By: Greig

“That the Commission accept the delegation request from the Halton-Hamilton Source Protection Committee to make a presentation to the Commission at the January 17, 2019 meeting.”

*Motion Carried*

**NOTE:**  
Commissioner Mausberg was not present and did not vote.  
Commissioner Haswell was not present and did not vote.

**INFORMATION REPORTS – G Package**

**M791R19/10-2018**  
Moved By: McKinlay  
Seconded By: Burton

“That the Commission receive the G package.”

*Motion Carried*

**NOTE:**  
Commissioner Mausberg was not present and did not vote.  
Commissioner Haswell was not present and did not vote.

**DISCUSSION**

Commissioner Horner commended staff on the high number of Director-approved Development Permit applications.

**NEW BUSINESS**

No new business.
ADJOURNMENT

M791R20/10-2018

Moved By: Carr

“That this meeting be adjourned.”

Motion Carried

NOTE: Commissioner Mausberg was not present and did not vote.
Commissioner Haswell was not present and did not vote.

Time of Adjournment: 5:06 p.m.

R.F. (Russ) Powers
Chair