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# NIAGARA ESCARPMENT COMMISSION MEETING

# January 21, 2021

Members Present**:**

B. Burton, M. Curley, J. Downey, G. Driedger, R. Gibson, L. Golden, J. Horner,

D. Hutcheon, G. Krantz, K. Lucyshyn, B. Mackenzie, D. McKinlay, P. McQueen,

R. Nicholson,J. Vida, A. Witteveen.

Regrets:B. Clark.

Staff Present**:** D. Ramsay, K. Peters, J. Stuart, L. Grbinicek, N. Mott, K. Bannister,
D. Kurylovich, D. D’Silva, K. Xu, J. Olah, A. Bochenek.

Also Present**:** D. Kappos, Counsel, Ministry of Natural Resources and Forestry (MNRF); S. Cooper, R. Pineo (MNRF); R. Patrick, C.O.N.E.

Meeting called to order**:** 12:30 p.m.

Chair Rob Nicholson presided.

### Introductions:

The Chair advised that the final appointment to the Commission had been made and welcomed Commissioner Vida. He noted that the Commissioner would be observing this meeting and therefore will not vote until the March 2021 Commission meeting.

The Director reminded attendees of the virtual commission meeting procedures.

### Land Acknowledgement

The Chair read aloud the Land Acknowledgment.

### BUSINESS ARISING FROM PREVIOUS MEETINGS:

None.

### APPROVAL OF MINUTES – M805/11-2020

**M806R1/01-2021**

*Moved By: Burton*

Seconded By: *Downey*

*“That the Commission approve the Commission Minutes of November 19, 2020 as written.”*

 *Motion Carried*

### DISCUSSION:

None.

### APPROVAL OF MINUTES – P78/11-2020

**M806R2/01-2021** *Moved By: McQueen*

 Seconded By: *Horner*

*“That the Commission approve Policy Minutes P78 of November 18 and 19, 2020 as written.”*

 *Motion Carried*

### DISCUSSION:

Commissioner McKinlay clarified that his intention regarding his comment on farm help accommodations not being up to current housing code. The intent of the comment was that while farm help accommodation is up to code and meets minimum housing standards, it does not necessarily meet the expectations of housing standards for most people. The Chair advised that he will be meeting with the Minister, and this will be discussed.

Commissioner Curley inquired if timelines on the development of policy guidance material and technical criteria should be extended due to the pandemic.

The Chair thanked staff for the very thorough and detailed minutes.

### MOTION FOR SPEAKERS

**M806R3/01-2021** *Moved By: Hutcheon*

 *Seconded By: Mackenzie*

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

 *Motion Carried*

### CONFLICTS OF INTEREST – Declaration of Conflicts of Interest

None declared.

### DISCUSSION AGENDA: A and B PACKAGES (Staff Reports, External submissions)

### A1

### DEVELOPMENT PERMIT APPLICATION H/R/2019-2020/201

9196 Sixth Line Nassagaweya

## Part Lot 7, Concession 6 Nassagaweya

## Town of Milton, Region of Halton

### PROPOSAL:

To construct the following for private use only, on a 15.2 ha (37.5 ac) lot:

Single Dwelling ± 2,534 sq m (± 27,280 sq ft), ± 12.6 m (± 44 ft) high

Septic System/Bed (Size to be determined)

Indoor Swimming Pool ± 325 sq m (± 3,500 sq ft), ± 10 m (± 34 ft) high

Sports Building ± 504 sq m (± 5,430 sq ft), ± 11.7 m (± 38 ft) high

Tennis Court ± 36 m x ± 18 m (± 120 ft x ± 60 ft)

Detached Garage ± 232 sq m (± 2,500 sq ft), ± 9 m (± 33 ft) high

Solar Panel Array ± 372 sq m (± 4,000 sq ft)

Power Transformer ± 100 sq m (± 1,074 sq ft)

Extended Asphalt Drive ± 330 m (± 1,083 ft) long by ± 7.6 m (± 25 ft) wide

Precast Concrete Cistern 50,000 litres

Note: the application also includes the paving of an existing gravel drive on the adjacent property at 9300 Sixth Line Nassagaweya, which is also owned by the applicant.

### RECOMMENDATIONS:

1. That the Commission ***approve*** construction of the ± 2,534 sq m (± 27,280 sq ft) dwelling, septic system, water storage cistern, extended asphalt driveway, and re-surfacing of the gravel drive (at 9300 Sixth Line Nassagaweya), subject to Conditions.
2. That the Commission ***not approve*** the proposed accessory structures and facilities including the indoor pool, solar array, transformer structure, detached garage, sports building, and tennis court.

### CONDITIONS OF APPROVAL H/R/2019-2020/201

1. Development shall occur in accordance with the Site Plan, Development Permit 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 except for that identified within the development envelope in accordance with the approved Site Plan.

5. No vegetation shall be cut or removed from the development envelope except for that identified within the development envelope in accordance with the approved Site Plan.

6. All disturbed areas shall be re-vegetated and stabilized, in accordance with the approved Site Plan, by the end of the first growing season following the completion of site grading and building construction. All trees, shrubs and nursery stock shall be native to Ontario except those where approved under the Development Permit. Native plant material should be sourced from local plant nurseries when available; bush dug plant material is not acceptable.

7. Appropriate erosion/sediment controls and tree protection measures (e.g., heavy-duty silt fencing and tree hoarding) shall be installed around the development site, prior to commencing development. Photographs verifying the installation of the silt fencing and tree hoarding shall be submitted to the Niagara Escarpment Commission prior to commencing construction of the accessory building. The controls shall be maintained until the works are completed and the site is stabilized.

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

1. 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;
2. An accurate delineation of the approved development envelope with temporary fencing;
3. The accurate location of all structures, sewage disposal system and driveway within the development envelope showing setbacks from the property lines, wooded areas, etc.;
4. Extent of all disturbed areas;
5. 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;
6. Erosion and sediment control measures;

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.

9**. Prior to the issuance of a Development Permit**, the applicant shall submit **final construction details** for the dwelling and any approved accessory facilities and structures, including:

1. exterior elevations, floor area, height above existing and proposed grades, number of storeys;
2. roofing materials and colour;
3. exterior cladding and colour;
4. all exterior lighting related to the dwelling and any approved accessory structures, which shall be designed to be minimal, subdued, of low height and downward facing. No soffit lighting to be used above the first storey of the dwelling or accessory structures.
5. All fenestration on the dwelling and accessory structures, which shall consist of bird-friendly glass, the specifications of which are to be noted on the construction drawings; and
6. final construction drawings shall note that blasting is not permitted. Excavation is to be done by mechanical means only.

Upon approval, these plans will be stamped “NEC Approved” and shall form part of the Development Permit referred to in Condition # 1.

10. **Prior to the issuance of a Development Permit**, a **final landscape plan** shall be prepared by a qualified person. The Plan shall address all landscape lighting, planting, screening requirements associated with screening and mitigation as well as amenity areas and details. Stipulations:

1. The lighting plan shall be prepared by a qualified person in accordance with Dark Sky principles. The lighting design goal is minimal use of exterior lighting and lighting fixtures that are consistent with dark sky principles.
2. All new tree and shrub species shall be native to Ontario except where otherwise approved by the Niagara Escarpment Commission. Plant material shall be sourced from local plant nurseries; bush dug plant material is not acceptable.
3. Planting and the rehabilitation of all disturbed areas shall be completed, by the end of the first growing season following the completion of site grading, servicing and building construction to the satisfaction of the Niagara Escarpment Commission.
4. 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.
5. Subsequent to the completion of the works a letter certifying the work has been completed in accordance with the approved plan shall be provided to the Niagara Escarpment Commission by a qualified person.

The approved **Final Landscape Plan** shall form part of the Site Plan referred to in Condition # 1 and development shall proceed in accordance with the details of the Final Landscape Plan.

11. **Prior to the issuance of a Development Permit**, the landowner shall (at the landowner’s expense), enter into an **Agreement** (to be registered on title) with the Niagara Escarpment Commission pursuant to Section 24(2.1) of the *Niagara Escarpment Planning and Development Act*, that shall ensure that the principal dwelling shall only contain one dwelling unit, and shall not be used for commercial, institutional, , or industrial purposes.

12. Site preparation (i.e., grubbing, tree and vegetation clearing, excavation) shall not occur between March 1 and August 15 inclusive, of any given year, within the migratory and breeding season of avian species at risk to ensure protection of breeding habitat. These details shall be noted on the final construction drawings and landscaping plans. If tree removal is necessary within this timing window, a survey shall be conducted by a qualified biologist within two days of tree removal activities to determine if any nesting birds or roosting bats are present. The results of this survey and any necessary mitigation plans shall be provided to Niagara Escarpment Commission staff prior to the removal of trees.

13. Development shall occur in accordance with the **Vegetation Protection Plan** prepared by Terrastory Environmental Consulting Inc., dated October 8, 2020. The Vegetation Protection Plan shall form part of the Site Plan referred to in Condition #1.

14. This conditional approval expires one (1) year from the date of confirmation of the decision to approve the Development Permit Application. Condition Nos. 8, 9 10 and 11 of this conditional approval shall be fulfilled before the expiry date.

**Notes/Advisories:**

1. 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, Town of Milton Site Alteration By-law, *Conservation Authorities Act*, *Endangered Species Act*, etc.).
2. The Regional Municipality of Halton advises: should deeply buried archaeological remains/resources be found on the property during construction activities, the Ministry of Heritage, Sport, Tourism & Culture Industries should be notified immediately. In the event that human remains are encountered during construction, the proponent should immediately notify the police.
3. The swimming pool (if approved) must be filled with trucked-in water and not ground or surface water.
4. The stone fencerows on the subject property are not approved for removal. Should the landowner wish to demolish or otherwise modify them, their cultural heritage value and interest should be assessed through the evaluation of a new Development Permit Application.
5. Development Permit #11657H/D/2018-2019/451 was previously issued for the demolition of existing structures on the property. The landowner is advised that demolition must occur in accordance with the conditions of said permit.

Note:

Kim Peters, Manager, and Karen Bannister, Landscape Architect, provided a brief update and answered questions.

**M806R4/01-2021** *Moved By: Burton*

 *Seconded By: Hutcheon*

*“That Recommendations 1 and 2 be voted on separately.”*

For the Motion: Against the Motion:

*Burton*

*Curley*

*Downey*

*Driedger*

*Gibson*

*Golden*

*Horner*

*Hutcheon*

*Krantz*

*Lucyshyn*

*Mackenzie*

*McKinlay*

*McQueen*

*Witteveen*

 *Motion Carried*

**M806R5/01-2021**

Moved By: Krantz

Seconded By: Hutcheon

“**1.** That the Commission **approve** construction of the ± 2,534 sq m (± 27,280 sq ft) dwelling, septic system, water storage cistern, extended asphalt driveway, and re-surfacing of the gravel drive (at 9300 Sixth Line Nassagaweya), subject to Conditions.”

**For the Motion: 12 votes**

Burton , Downey, Driedger, Gibson, Golden, Horner, Hutcheon, Krantz, Lucyshyn, McKinlay, McQueen, Witteveen.

**Against the Motion: 2 votes**

Mackenzie, Curley.

**Motion Carried**

**M806R6/01-2021** *Moved By: Krantz*

 *Seconded By: Hutcheon*

*“****2.*** *That the Commission* ***not approve*** *the proposed accessory structures and facilities including the indoor pool, solar array, transformer structure, detached garage, sports building, and tennis court”*

For the Motion: Against the Motion:

*Curley Burton*

*Hutcheon Downey*

*Krantz Driedger*

*Mackenzie Gibson*

 *Golden*

 *Horner*

 *Lucyshyn*

 *McKinlay*

*McQueen*

*Witteveen*

 *Motion Defeated*

**M806R7/01-2021** *Moved By: McKinlay*

 *Seconded By: Burton*

*“That* *the Commission* ***approve*** *the proposed accessory structures and facilities including the indoor pool, solar array, transformer structure, detached garage, sports building, and tennis court with applicable modification of the Conditions of Approval, and that the Commission extend the Agreement on Title to all accessory structure.”*

For the Motion: Against the Motion:

*Burton Curley*

*Downey Hutcheon*

*Driedger Mackenzie*

*Gibson*

*Golden*

*Horner*

*Krantz*

*Lucyshyn*

*McKinlay*

*McQueen*

*Witteveen*

 *Motion Carried*

### DISCUSSION:

The Commission noted great concern with the future use of the property should ownership change, including the possibility of commercial uses and the viability of the large dwelling being maintained. Staff noted that there is Condition for an Agreement of Title to prohibit commercial uses.

Commissioner Mackenzie noted that this proposal conflicts with purpose of the NEP, specifically the requirement to maintain and enhance open landscape character, and preserve natural scenery. He noted that the it will be difficult to find new owners for these very large homes.

The Commission noted continued concern that there is no prescriptive limit or formula for maximum dwelling size in the NEP, and that very large homes are becoming more common. Concern was expressed about the viability of the very large homes when the property changes owners and noted a strong need for a policy on large homes in the Niagara Escarpment Plan Area.

The Commission discussed the need for the accessory buildings and agreed that storage is required for the equipment needed to maintain a property of this size. The Commission asked that the Agent review the size of the power transformer building. The Agent agreed to review the size and decrease if possible.

The Commission asked about ensuring public access to the Bruce Trail and Rim Trail. Staff advised that Conservation Halton and the Bruce Trail Conservancy are discussing an easement agreement to address this.

Commissioner Downey noted that this was a very good discussion for the new Commissioners. She advised that current NEP policies do not outline limit on size, and that if homes of this magnitude have an impact on the surrounding community, the Commission can and should address this.

**Break: 2:30 p.m. to 2:40 p.m.**

### A2

**Staff Report**

### Development Permit Application N/A/2019-2020/138

No municipal Address, Victoria Avenue Robson Road

PLAN M2 PT LOT 166 RP 30R3587, Part 1

Town of Lincoln, Regional Municipality of Niagara.

### PROPOSAL:

To construct a 2 storey, ± 162 sq m (± 1743.75 sq ft) grape processing, winery facility, and tasting and retail area, with a maximum height to peak of ± 8 m (± 26.24 ft), and a new ± 162 sq m (± 1743.75 sq ft) parking area; to install a new septic system (with tertiary treatment system); a ±15,898.73 l (±4,200 gal) cistern and to upgrade an existing driveway and crossing, on an existing ± 7.89 ha (± 19.5 ac) lot supporting an agricultural operation.

### RECOMMENDATION:

That the proposal be **approved,** subject to the following conditions:

### CONDITIONS OF APPROVAL N/A/2019-2020/138

1. Development shall occur in accordance with the Site Plan, Development Permit 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:
8. 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;
9. An accurate delineation of the approved development envelope with temporary fencing;
10. The accurate location of all structures, and driveway within the development envelope showing setbacks from the property lines, watercourse, top/bottom of slope, wooded areas, etc.;
11. Extent of all disturbed areas;
12. 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;
13. Erosion and sediment control measures (as per OPSD 0219.1300)
14. 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.
15. Wording describing the sequencing of vegetation protection during construction to be included directly on the site plan.

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.

1. **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 winery including exterior elevations, floor area, height above existing and proposed grades, the 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.
2. **Prior to the commencement of any development**, appropriate erosion/sediment control measures shall be implemented and maintained as shown on the approved Site Plan (Condition #1) until all disturbed areas are stabilized. The landowner shall confirm the installation of the erosion/sediment control measures through the submission of photographs to the Niagara Escarpment Commission. It is the responsibility of the landowner to implement, monitor and maintain all erosion/sedimentation control structures until vegetative cover has been successfully established. Any deficiencies shall be addressed immediately.
3. This Development Permit does not permit large-scale events that are not directly related to wine production on the property (e.g., weddings, concerts).
4. Prior to construction, the applicant will finalize the culvert and riprap design to the satisfaction of the Niagara Peninsula Conservation Authority through their Work Permit.
5. Prior to the issuance of a Development Permit by the Niagara Escarpment Commission, the applicant shall ensure that the proposed cistern meets the applicable section of the Ontario Building Code and that the cistern will not have a negative impact on the quality of ground water to the satisfaction of the Regional Municipality of Niagara.
6. 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.

**Advisory Notes:**

1. 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.
2. The Niagara Escarpment Commission supports the protection of the night sky from excessive lighting and recommends that the applicant obtain information on shielding the night sky through the use and operation of appropriate lighting fixtures. This information is available at [www.darksky.org](http://www.darksky.org)
3. Should deeply buried archaeological remains/resources be found on the property during construction activities, the Heritage Operations Unit of the Ontario Ministry of Tourism, Culture and Sport shall be notified immediately. In the event that human remains are encountered during construction, the owner shall immediately notify the police or coroner, the Registrar of Cemeteries of the Ministry of Small Business and Consumer Services, and the Ministry of Tourism, Culture and Sport.
4. The applicant is required to apply for aRegional Construction Encroachment and Entrance Permit prior to construction.
5. The applicant is encouraged to comply with the signage policies in Part 2.2.12 of the Niagara Escarpment Plan to ensure compatibility with the surrounding landscape and community.

Note:

* Dmitry Kurylovich, Senior Planner, provided a brief review of the staff report and answered questions.
* Rob Harold, Harsch Winery Group, was present to answer questions.
* Valerie Keld, Vinleland Residents Group, was present to observe.

**M806R8/01-2021** *Moved By: McKinlay*

 *Seconded By: Burton*

*“That the proposal be* ***approved*** *subject to Conditions.”*

For the Motion: Against the Motion:

*Burton*

*Curley*

*Downey*

*Driedger*

*Gibson*

*Golden*

*Horner*

*Hutcheon*

*Krantz*

*Lucyshyn*

*Mackenzie*

*McKinlay*

*McQueen*

*Witteveen*

 *Motion Carried*

### DISCUSSION:

The Commission noted that the proposal fits well in the area, as there are other wineries close by.

Commissioner Curley noted that the proposed winery will contribute added value to the local agriculture and economy, and advised the petitioners that a subdivision could have been proposed instead. The Director advised that no subdivisions are permitted on lands designated as Escarpment Protection Area.

**M806R9/01-2021** *Moved By: Horner*

 *Seconded By: Mackenzie*

*“That the Commission move in-camera.”*

 *Motion Carried*

**M806R10/01-2021** *Moved By: McQueen*

 *Seconded By: Gibson*

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

 *Motion Carried*

### C1

### Information Report

### Dufferin Aggregates Milton Quarry East Expansion Pre-consultation comments

Staff advised the Commission of recent NEC participation on the Joint Aggregate Review Team (JART) for the Milton Quarry East Expansion proposal which an Amendment application is expected in the spring 2021. The NEC submitted comments as part of the Town of Halton Hills pre-consultation on the proposal. Draft Terms of Reference for technical studies have been submitted by Dufferin and reviewed by Staff. NEC has identified the suite of technical studies that will be required to accompany the application. Staff will continue working with Dufferin Aggregates and the JART through the planning and NEP Amendment and Development Permit processes.

**M806R11/01-2021** *Moved By: Hutcheon*

 *Seconded By: Downey*

*“That the Commission receive the information.”*

 *Motion Carried*

**DISCUSSION:**

None.

### C2

### Information Report

### NEC Comment Letter on Proposed Regulation Changes to Endangered Species Act (ESA) Environmental Registry posting #019-2636

Lisa Grbinicek reviewed the NEC comments submitted regarding the Environmental Registry (ER) posting regarding Species at Risk Conservation Fund and to streamline authorizations for certain activities that impact SAR, while maintaining protections for SAR.

The proposed changes include a new fund-based option for development that impact SAR to pool resources to best provide eligible species with protection. Six species have been identified for in the initial stages of the new approach. The proposed fund does not replace the NEP test of avoidance first, and does negate the need for an NEC permit. Staff also noted that endangered species not identified as one of the six initial species on the list are still protected under the provisions of the ESA.

**M806R12/01-2021** *Moved By: Horner*

 *Seconded By: Curley*

*“That the Commission receive the information.”*

 *Motion Carried*

### DISCUSSION:

The Commission expressed concern that this is piecemeal approach and the overall impact on habitat for endangered species is not being considered. and the “whittling down”. A landscape approach to protecting SAR is necessary in some situations. The regulation change may facilitate this, but caution needs to be applied.

Commission Mackenzie asked if paying a fee to the new fund is a vehicle for ignoring ESA habitat. He also noted that the proposed changes are complex and confusing.

Commissioner McKinlay asked if the province-owned lands are exempt from the proposed changes and provided an example of crown owned lands where development resulted in impact to bobolink habitat. Staff did not have knowledge of the example provided and could not comment but confirmed that the ES Act binds the Crown.

Commission Horner asked if this is a way for to buy their way out of protecting endangered species habitat. Staff noted that the MECP proposed fund is the third option, after avoidance and mitigation are determined to not be possible.

Commissioner McKinlay noted that there can be unintended consequences with the proposed changes. He noted that crop types could be changes that would limit SAR habitat. Staff advised that this is not part of staff’s scope, but more information will come available as the program is rolled out.

Commissioner Curley asked how the fund would impact NEC applying Conditions of Approval. Staff advised that Section 24(3) of the NEPDA require that NEC approvals are obtained prior to any other approval and therefore nothing in the proposed regulation changes prohibits NEC staff from being more restrictive, where appropriate.

### C3

### Status Update

### Niagara Escarpment Plan Amendment PP 213 18: Blueland Farms

### (McCormick Pit)

Staff advised the Commission that a new submission was received and will be circulated for peer review. Twelve objections were received from the 2018 original

submission, and if they are not resolved, the application will automatically go to a hearing at the Niagara Escarpment Hearing Office. Staff anticipate bringing a recommendation on the new submission and supporting documentation to the Commission before the end of the year.

**M806R13/01-2021** *Moved By: Witteveen*

 *Seconded By: Curley*

*“That the Commission receive the information report.”*

 *Motion Carried*

### DISCUSSION:

Commissioner Burton asked how likely it was that the objections would be resolved.

Commissioner Witteveen asked if rehabilitation rules apply to sand and gravel pits in addition to quarries. Staff advised that the rules apply, there are strict guidelines and requirements for rehabilitation, and that discussions are in progress for the rehabilitation plan.

### C4

### Information Report

### Bill 229 – Schedule 6 Overview and Implications for Niagara Escarpment Program

Staff reviewed the impacts of Bill 229 to the NEP Program. It was noted that the changes were approved through an omnibus bill and staff had no opportunity to advise the government of impacts to the NEP Program. Staff will monitor the situation and explore possible Memorandums of Understanding with partner Conservation Authorities.

**M806R14/01-2021** *Moved By: Burton*

 *Seconded By: Curley*

*“That the Commission receive the information report.”*

 *Motion Carried*

### DISCUSSION:

The Commission request information on the impact to Stop Work Order powers of conservation authorities. The Director advised that this would give Conservation Authorities additional powers that are on par with the NEC’s ability to issue a Stop Work Orders. Staff will monitor how Conservation Authorities use this new ability. The NEC is able to issue Stop Work Orders only for reasons of public safety or significant environmental harm.

### CONSENT AGENDA/ITEMS MOVED FOR DISCUSSION:

Information only Items

G1 Director Approvals and Dashboard for December 2020

G2 Appeals and Hearings Status Chart as of December 31, 2020

G4 Plan Amendments Status Update as of December 31, 2020

G5 Staffing Update – verbal only

**M806R15/01-2021** *Moved By: Horner*

 *Seconded By: Witteveen*

*“That the Commission receive the Consent Agenda information items.”*

 *Motion Carried*

### DISCUSSION:

The Manager provided a staffing update.

Commissioner Curley noted that large homes have been appealed and reiterated the need to address the compatibility of large homes in the NEP and develop guidelines. The Director advised that staff presented a report re large homes to the Commission in 2018, and that the Commission requested that staff monitor the situation. Staff will update the report and bring back to the Commission for review. The Director also noted that there are no prescriptive guidelines in the 2017 NEP.

Commissioner Downey noted that while the total number of large homes in the NEP is small, there is a cumulative effect and reiterated the need for the Commission to develop a policy on this. She noted that smaller dwellings have been appealed and have gone through the NEHO process for approval.

Commissioner Horner noted that some appeals seem frivolous and asked if there was an opportunity to have appellants pay a fee to appeal in order to reduce the number of frivolous appeals. The Director advised that the NEHO Hearing Officer is able to determine if an appeal is frivolous or vexatious through the hearing process.

### NEW BUSINESS

Commissioner McKinlay raised the issue of parking lot development in NEP Area. He has noted snow removal equipment is being hindered by cars parked on roads, and by parking lots being too small for snow removal equipment to maneuver. He was concerned that it is difficult for public agencies to get development permits for parking lots.

Staff advised that this is an issue that arises from time to time. The NEC can’t bring forward applications. Staff noted that parking lot applications for the Bruce Trail have been processed and some are fairly simple. The Conditions of Approval depend of the site in question. Parking in NEPOSS parks can be in sensitive areas so applications for those areas are sometimes complex.

Commissioner McQueen agreed that tourism will increase now that people have discovered these areas. He noted that coach buses of people were parked at the Old Baldy property in Beaver Valley at Thanksgiving, as well as cars from Toronto and the GTA. Some residents have been willing to provide paid parking. He noted the need for municipalities to become involved.

Commissioner Lucyshyn advised that his aggregate company has assisted municipalities and other organizations in construction of parking areas and and encouraged Commissioners to reach out to local aggregate industries that might assist in this area.

The Director suggested that these issues be addressed at a NEPOSS meeting as the Bruce Trail Conservancy and other agencies will be present.

Commissioner Horner commented that a discussion on managing tourism is necessary. There has been a significant increase in ecotourism, likely due to the current pandemic travel restrictions. She noted that in Mulmur there are parking issues. There are also no public washrooms.

Commissioner Downey noted that the Cheltenham Badlands property is a good example of tourism being managed through supporting infrastructure.

Commissioner Mackenzie noted that every Conservation Authority is experiencing a significant increase in tourism. He noted that the increase to tourism likely will not decrease after the pandemic is over, and that more nature trails are needed in the southern portion of the NEP.

Commissioner Golden noted that tourism is still happening during the pandemic lockdown and there is spillover from one area of the NEP to other areas of the NEP. There is a need to provide venues for people and need to manage the volume.

Commissioner Hutcheon asked for an update on the Policy committees. The Director advised that an update would be brought back after a discussion with the Chair.

The Chair thanked the staff for their continued work on the virtual meetings.

### ADJOURNMENT

**M806R16/01-2021**  *Moved By: Gibson*

*“That this meeting be adjourned.”*

 *Motion Carried*

**Time of Adjournment:** 4:50 p.m.

 Rob Nicholson

Chair