**Niagara Escarpment Commission**

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# MINUTES OF M808/05-2021

**NIAGARA ESCARPMENT COMMISSION**

**VIA WEBEX DUE TO COVID-19 PANDEMIC**

**May 20, 2021**

## MEMBERS PRESENT:

B. Burton, B. Clark, 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:

None.

## STAFF PRESENT:

D. Ramsay, K. Peters, L. Grbinicek, N. Mott, J. Loiacono, A. Obradovic, L. Wang,

D. D’Silva, K. Xu, J. Olah, A. Bochenek.

## ALSO PRESENT:

S. Cooper, J. Gaweda, Ministry of Natural Resources and Forestry (MNRF);

R. Patrick, C.O.N.E.

## MEETING CALLED TO ORDER 10:10 a.m.

Chair Rob Nicholson presided.

## INTRODUCTIONS:

The Chair thanked staff for their continued work on the staff reports and the efficient meetings during the pandemic.

## LAND ACKNOWELDGEMENT

The Chair read aloud the Land Acknowledgment.

### BUSINESS ARISING FROM PREVIOUS MEETINGS:

None.

**PRESENTATIONS:**

**MNRF NEPOSS OVERVIEW**

**NEPOSS COUNCIL UPDATE**

Susan Cooper, Natural Heritage & Land Use Planning Advisor, Ministry of Natural Resources and Forestry, provided an overview of the Niagara Escarpment Parks and Open Space System (NEPOSS) in relation to Regulation 828 (Development Control Exemptions), and the NEPOSS management plan process.

Eric Baldin, Manager, Land Planning and Management, Credit Valley Conservation, and Chair, NEPOSS Council, provided a NEPOSS Council update.

**DISCUSSION:**

The Chair thanked Ms. Cooper and Mr. Baldin for their presentations.

The Commission requested information on how park management plans are funded. Ms. Cooper advsied that the conservation agencies pay for park managements plans. It was noted that preparing a park management plan can take several years, and significant financial investment, such as the Cheltenham Badlands Park management plan.

Visitation to the parks has dramatically increased during the pandemic, and this has exacerbated already-existing issues like the need for more parking and washrooms. It was noted that small municipalities with limited tax bases are struggling to cover the additional costs from the increased influx of visitors.

The lack of available parking across the municpalities has led to visitors parking illegally. Some municipalities are piloting shuttle services at their own cost to address insufficient parking at popular locations. Some parks have implemented a reservation system at their own cost to prevent overcrowding. Ms. Cooper noted that she is aware of some parks using social media platforms to redirect visitors to parks that are less busy.

A Commissioner noted the province should be doing as much as possible to encourage people to visit the Escarpment, and to protect it for the long term. He noted that past provincial governments provided funds to acquire land, to preserve parks and provide public access to the Escarpment. The current government has not provided funding, and acquisition costs also now fall to the municipalities and conservation agencies, in addition paying for more facilities and parking lots. The increasing population has not been addressed in government budgets, nor has the need for additional access points to the Escarpment which would spread out visitor demand across the Escarpment.

The Commission suggested that concerns related to increased visitation and stress on existing parks and open spaces be raised with the Minister of Natural Resources and Forestry.

## APPROVAL OF MINUTES – M807/03-2021

**M808R1/05-2021**

*Moved By: Burton*

*Seconded By: Horner*

*“That the minutes of the March 18, 2021 be approved as amended on page 9.”*

***Motion Carried***

**DISCUSSION:**

Commissioner Burton noted that motion M807R10 was deferred, not defeated, and that in motion M807R11, the words ‘to the next meeting” should be removed.

**M808R2/05-2021:**

*Moved By: Hutcheon*

*Seconded By: Mackenzie*

*“That staff return to the Commission at the Fall 2021 Policy Meeting with a report that evaluates policies regarding campgrounds and potentially proposes the scope for a Niagara Escarpment Plan Amendment to address changes in the camping industry, while ensuring that the Plan’s Purpose and Objectives continue to be upheld.”*

***Motion Carried***

## MOTION FOR SPEAKERS

**M808R3/05-2021:**

*Moved By: Hutcheon*

*Seconded By: Horner*

*“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

**STAFF REPORT**

### H/S/2010-2011/134

768 Mountain Brow Road West

### H/S/2020-2021/238

780 Mountain Brow Road West

### H/S/2020-2021/239

720 Mountain Brow Road West

City of Burlington, Region of Halton

### PROPOSAL:

To provide municipal water service connections from the City of Hamilton to three existing residential lots on Mountain Brow Road West in the City of Burlington.

### RECOMMENDATION:

That the Applications be approved with the following conditions:

1. Development shall occur in accordance with the Terms and Conditions of the Development Permit.
2. The Development Permit shall expire three (3) years from the date it has been issued or once the development has been completed in accordance with the Development Permit.
3. No site alteration of the existing contours of the property including the placement or stockpiling of fill (i.e. excess or imported soil) on the property is permitted with the exception of that identified within the development envelope in accordance with the Final Site Plan.
4. No vegetation shall be cut or removed from the development envelope except for that identified within the development envelope in accordance with the Final Site Plan.
5. If development has commenced under this Development Permit, any/all disturbed areas of land or soil shall be re-vegetated and stabilized to the satisfaction of the Niagara Escarpment Commission on or before the date of expiry of the Development Permit.
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 Niagara Escarpment Commission approval. The following information shall be shown directly on the Plan:
7. The Final Site Plan has been prepared by a qualified professional;
8. All drawings submitted have been drawn to scale (bar scale shown), reference the application number and address of the proposal, be dated (revisions as well), and include the name of the relevant individual or consultant who prepared the drawing;
9. Outline of the approved development envelope / extent of all disturbed areas;
10. Location of all existing and proposed structures, dwelling, sewage disposal system, well/cistern, driveway, showing setbacks from the property lines; construction access / haul routes, any watercourses or water features, wooded areas, municipal water line etc.;
11. Grading, drainage, and fill management details 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.

1. The location and design of erosion and sediment control measures (e.g., fencing, blankets, rip-rap, temporary mulch / seeding), and limit-of-work construction or eco-protection fencing;
2. Identify the areas of existing vegetation to be retained, areas of vegetation to be removed, and the location of any proposed plantings.

Development shall proceed in accordance with the details of the approved Final Site plan.

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 April 15, 2011, as amended.( [e-Laws | Ontario.ca](https://www.ontario.ca/Laws))

1. **Prior to the issuance of a Development Permit by the Niagara Escarpment Commission,** the applicant or their contractor shall submit for the approval of the Niagara Escarpment Commission, **final construction details** for the proposed lateral water line to the dwelling. These details shall take into consideration the recommended mitigation measures to address the potential presence of karst on the subject lands outlined in the report by Terra Dynamics Consulting Inc. (Construction of Watermain, 405 Mountain Brow Road, August 22, 2020).

Development shall proceed in accordance with the details of the approved Final Construction Details.

1. **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 vegetation retention and planting requirements in accordance with the standard practices of the implementing authority. The following stipulations shall be included directly on the Plan:
2. All new tree and shrub species (including seed mixes) shall be native to Ontario except where otherwise approved by the Niagara Escarpment Commission. Plant material shall be sourced from local plant nurseries.
3. Planting and the rehabilitation of all disturbed areas shall be completed on or before the date of expiry of the Development Permit 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. Once the development has been completed, a letter certifying the landscaping/ planting work has been completed in accordance with the approved Landscape Plan shall be provided to the Niagara Escarpment Commission by a qualified person.
6. **Prior to the commencement of any development**, erosion and sediment control measures (e.g. fencing, blankets, rip-rap), and/or vegetation protection fencing shall be implemented and maintained as shown on the **Final Site Plan** until all disturbed areas are stabilized. It is the responsibility of the landowner to implement, monitor and maintain all erosion and sedimentation control measures and vegetation protection fencing in good condition until vegetative cover has been successfully established and the development is completed.
7. **Prior to the commencement of any development,** the Region of Halton and the City of Hamilton shall notify the Niagara Escarpment Commission that they have entered into an inter-municipal water service agreement to permit the connection of the dwelling to the Hamilton municipal water system.
8. **Prior to the commencement of any development**, the constructor (contractor) shall provide a written record of a mitigation plan to the satisfaction of the Director, Hamilton Water, that protects well owners in case water supply wells on Mountain Brow Road West experience water quality or quantity issues as a direct result of construction of watermain/waterline service line infrastructure. This plan would include identification and monitoring of potential impacts, triggers, timelines for investigation and remediation, City notification and mitigation plans in case impacts arise (e.g. provision of temporary water supply and expediting of final service connections to affected properties).
9. Following the installation of the municipal water line and connection to the dwelling of the water service on the subject lands, the owner shall de-commission the well to the satisfaction of the Niagara Escarpment Commission and the Region of Halton.
10. Within thirty (30) days upon completion of the development, written confirmation from a qualified person or the property owner that the development was completed in accordance with the Development Permit shall be submitted to the Niagara Escarpment Commission.
11. The landowner shall advise Niagara Escarpment Commission staff in writing of the start and the completion date of the development. This notice shall be provided to the NEC staff 48 hours prior to the commencement of development, and within 14 days upon completion.
12. This conditional approval expires 18 months (1.5 years) from the date of confirmation of the decision to approve the Development Permit application. Conditions 6, 7 and 8 of this conditional approval shall be fulfilled before the expiry date.

### Advisory Notes:

1. A Development Permit does not relieve the landowner/permit holder from the requirements of any other required approval, licence or certificate under any statute (e.g., Ontario Building Code, *Planning Act, Municipal Act,* *Conservation Authorities Act, Ontario Water Resources Act*, etc.). The Niagara Escarpment Commission Development Permit is required prior to the issuance of any other applicable approval, licence or certificate.
2. Should deeply buried archaeological remains/resources be found on the property during construction activities, the Heritage Operations Unit of the Ontario Ministry of Heritage, Tourism, Sport, and Cultural Industries 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 Heritage, Tourism, Sport and Cultural Industries. (416-212-8886 or archaeology@ontario.ca)
3. Halton Region offers a Residential Private Well Decommissioning Grant to landowners who plan to decommission their unused well(s). The grant covers **50% of the total cost** up to a **maximum of $1,000.00 per well**. For more information visit the Region’s website at <https://www.halton.ca/For-Residents/Water-and-Environment/Water-Quality-Protection/Well-Water/Residential-Well-Decommissioning-Grant> and contact Halton Region’s Source Protection Specialist at sourcewater@halton.ca.

**Note:**

Nancy Mott, Senior Strategic Advisor, provided a brief review of the staff report and answered questions from Commission members.

**M808R4/05-2021:**

*Moved By: Hutcheon*

*Seconded By: McKinlay*

*“That the Commission endorse the staff recommendation to approve the applications.”*

**For the Motion: 16 votes**

Burton, Clark, Curley, Downey, Driedger, Gibson, Golden, Horner, Hutcheon, Krantz, Lucyshyn, Mackenzie, McKinlay, McQueen, Vida, Witteveen.

**Against the Motion: 0 votes**

None.

***Motion Carried***

### DISCUSSION:

The Commission requested clarification on whether the owners were seeking to connect to the sewer system, which parties will pay for the water connection, and if there would still be an issue with lead in the property owners’ water source. Staff advised that First Gulf may be contributing to the cost of extending the water main to the properties and that the property owners only requested to connect to the water supply. Staff advised that the technical analysis did not identify the source of the lead in the water, and that upon connection, the wells would be decommissioned so the water sources would not mix.

The Chair and the Commission thanked Ms. Mott for her extensive work on the matter, and for bringing it to the Commission.

Break 11:45 a.m. to 12:00 p.m.

## A2

**STAFF REPORT**

### N/A/2019-2020/317

Ezra Institute of Contemporary Christianity

76 Ridge Road West

Part Lot 10, Concession 2

Town of Grimsby, Region of Niagara

### PROPOSAL:

To establish the following within existing buildings on a 9.5-hectare property supporting a newly established farming use (orchard):

* An administrative office for the proposed on-farm diversified use within the ±1,663.58 square metre single dwelling
* A four (4) bedroom bed & breakfast within the ±1,663.58 square metre single dwelling as part of the proposed on-farm diversified use
* An event space, as part of the proposed on-farm diversified use, for up to 100 people within the existing ±267.6 square metre accessory structure, retaining a portion of this structure to be used for the farming use
* An office space for the farming use in a ±23.8 square metre accessory structure
* A five (5) bedroom area for full and part-time farm labourers and volunteers who tend to the orchard and/or take part in the agri-tourism/educational component of the on-farm diversified use

A walking trail is also proposed throughout the site.

## RECOMMENDATION:

That the application be refused for the following reasons:

The proposed development conflicts with the permitted uses and Part 2.2 and 2.8 of the NEP. Additionally, the proposal does not meet part 1.1.4.1 and 2.3 of the PPS nor the intent of the Guidelines of OFDU in prime agricultural areas. The application is also not supported by the Town of Grimsby or the Region of Niagara.

**Note:**

Johnpaul Loiacono, Senior Planner, provided a brief review of the staff report and answered questions.

**M808R5/05-2021:**

*Moved By: Burton*

*Seconded By: Downey*

*“That the application be deferred to provide time for the Applicant to work with staff to revise the proposal.”*

**For the Motion: 5 votes**

Burton, Downey, McKinlay, McQueen, Vida.

**Against the Motion: 11 votes**

Clark, Curley, Driedger, Gibson, Golden, Horner, Hutcheon, Krantz, Lucyshyn, Mackenzie, Witteveen.

***Motion Defeated***

**M808R6/05-2021:**

*Moved By: Driedger*

*Seconded By: Horner*

*“That the application be refused for the following reasons:*

1. *The proposed use is not permitted within the NEP. Staff consider it to be an institutional use that is not permitted in the prime agricultural areas.*
2. *The proposal does not meet the intent of the On-Farm Diversified Uses Policies of the NEP.*
3. *The application is not supported by the Region of Niagara and the Town of Grimsby.*
4. *The proposal does not meet the intent of the PPS.*

*The applicant can consider submitting a new Development Permit Application for a bed and breakfast (3 rooms) and agri-tourism aspects of the proposal.”*

**For the Motion: 12 votes**

Clark, Curley, Downey, Driedger, Gibson, Golden, Horner, Hutcheon, Krantz, Lucyshyn, Mackenzie, Witteveen.

**Against the Motion: 4 votes**

Burton, McKinlay, McQueen, Vida.

***Motion Carried***

**DISCUSSION:**

The Commission noted that the proposed development is not supportable as written, and that the applicant would benefit from engaging a professional planner to ensure future proposed uses would be supportable, or that a Plan Amendment Application could be considered.

A Commissioner noted that the application is a prime example of very large homes in the Plan Area moving to an institutional use after the original owner sells the property. She was concerned that the proposal used an agricultural use to get a foothold into an institutional use. She noted that the current owner is already advertising a summer camp on the property.

## C1

**Staff Report:**

**Amendment to Commission Meeting Procedures**

**Notice of Motion Requirements**

## Recommendation:

That the Commission approve amending the Commission Meeting Procedures to include direction for Notices of Motion, as identified in the staff report.

**Note:**

Debbie Ramsay, Director, presented and answered questions.

**M808R7/05-2021:**

*Moved by: Hutcheon*

*Seconded by: McKinlay*

*“That the Commission defer the report to provide the Director time to include guidelines and criteria that would apply to Notices of Motion for Commission review.”*

***Motion carried.***

### DISCUSSION:

The Commission requested more detailed information on how to apply the Notice of Motion criteria.

## CONSENT AGENDA/ITEMS MOVED FOR DISCUSSION:

Information only Items

G1 Director Approvals and Dashboard for March and April 2021

G2 Appeals and Hearings Status Chart as of May 5, 2021

G3 Director’s Report: March 1 to May 5, 2021

G4 Plan Amendments Status Update as of May 5, 2021

G5 Niagara Escarpment Hearing Office Decision on file B/R/2017-2018/9228

H1 Niagara Escarpment Foundation May 11, 2021 letter regarding Talisman Lands

**M808R8/05-2021:**

*Moved by: Witteveen*

*Seconded by: McQueen*

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

***Motion carried.***

### DISCUSSION:

The Commission requested an update on the opportunity to charge a fee when appealing an NEC decision. The Director advised that discussions are ongoing with MNRF.

## NEW BUSINESS

A Commissioner requested a future discussion on if an event is considered development. The Director advised that the topic will be included in the Events consultation process and will be brought back to the Commission at the Fall 2021 Policy meeting.

## ADJOURNMENT

**M808R9/05-2021**

*Moved By: McKinlay*

*“That this meeting be adjourned.”*

***Motion Carried***

Time of Adjournment: 1:15 p.m.

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 Rob Nicholson

Chair