** Niagara Escarpment Commission**

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# MINUTES OF M809/06-2021

**NIAGARA ESCARPMENT COMMISSION**

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

**June 17, 2021**

## MEMBERS PRESENT:

B. Burton, B. Clark, M. Curley, J. Downey, G. Driedger, R. Gibson, L. Golden, J. Horner, D. Hutcheon, G. Krantz (to 3:00 p.m.), 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, J. Stuart.

## ALSO PRESENT:

D. Kappos, Counsel, Ministry of Natural Resources and Forestry; R. Patrick, C.O.N.E.

## MEETING CALLED TO ORDER 12:30 p.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.

## APPROVAL OF POLICY MINUTES – P78/05-2021

**M809R1/06-2021**

*Moved By: Hutcheon*

*Seconded By: McKinlay*

*“That the Policy minutes of May 19, 2021 be approved as amended.”*

***Motion Carried***

**Discussion:**

Commissioner Witteveen clarified his comment regarding the federal government’s consideration to granting permanent residence status to 30,000 temporary farm help workers on page 3; Commissioner McKinlay noted that the correct name on page 3 should be the Georgian Bay Fruit Growers.

## APPROVAL OF MINUTES – M808/05-2021

**M809R2/06-2021**

*Moved By: Hutcheon*

*Seconded By: Witteveen*

*“That the minutes of May 20, 2021 be approved as written.”*

***Motion Carried***

**Discussion:**

None.

## MOTION FOR SPEAKERS

**M809R3/06-2021:**

*Moved By: Clark*

*Seconded By: McQueen*

*“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

The Chair advised that he had received an email of a lobbying nature from an applicant on the meeting agenda. He advised that he did not respond to the email.

## DISCUSSION AGENDA: A and B PACKAGES

## (*Staff Reports, External submissions)*

## P6

**STAFF REPORT**

**Pre-consultation and Complete Applications**

Technical Criteria Development

Background and Context Setting

## Recommendations:

That the Commission:

* Endorse this report; and,
* Direct staff to continue with the development of the Technical Criteria based on discussions with appropriate NEC and Ministry staff.

Note:

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

**M809R4/06-2021:**

*Moved By: Hutcheon*

*Seconded By: Curley*

*“That the Commission endorse the staff recommendations, and direct staff to prepare a simplified checklist, including drop down menus.”*

***Motion Carried***

### Discussion:

The Commission noted that the checklist could be overwhelming for simple applications and requested that it be reformatted with drop down options, and that building demolition be included as a type of development. A Commissioner requested that a note advising that requested studies are also required by the municipality be included, and that a letter be sent to applicants advising them when their application is complete. A Commissioner requested that samples of complete applications also be included.

The Commission noted concern that application turnaround time can be very long. Staff advised that a pilot project has started to streamline Director approvals on very low risk applications. The results will be analyzed at the end of August and rolled out to all NEC Development Permit applications in September.

The Commission raised the option of charging application and appeal fees, suggesting that the Chair write to the Minister. The Chair advised that staff will prepare a report on charging fees and bring it to a future meeting for discussion. NEC staff noted that this had been considered in 2012 and 2015.

## P5

**INFORMATION REPORT**

**Conditions of Approval Project**

## Recommendation:

That the Commission receive the report for information.

Note:

Brandon Henderson, Senior Planner, provided a brief review of the staff report and answered questions.

**M809R5/06-2021:**

*Moved By: Witteveen*

*Seconded By: McKinlay*

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

***Motion Carried***

**Discussion:**

The Commission inquired if there can be flexibility on Development Permit expiry dates. Staff advised that this can be determined on a case by case basis.

A Commissioner asked how follow up is done for dwellings that are decommissioned. Staff noted that these applications can be flagged for the compliance team to follow up on.

A Commissioner noted that an option can be added to recycle demolition materials onsite instead of being removed. Staff agreed, noting that the materials to be recycled cannot be contaminated.

## A1

**Staff Report:**

### Development Permit Application W/R/2014-2015/289

519 Jerseyville Road West, (Former) Town of Ancaster, City of Hamilton

## Proposal:

To recognize the demolition of a one-storey, ±138 square metres (±1,485 square feet) single dwelling, and to construct a two-storey, ± 716.28 square metres (± 7,710 square feet) single dwelling, which includes a ± 50.91 square metres (± 548 square feet) covered patio (loggia) in the rear of the dwelling and a ± 102.57 square metres (± 1,104 square feet) attached garage, having a height to peak of ±10.5 metres (± 34.5 feet) on a .40 hectare (1.0 acre) lot.

## Recommendations:

The application be refused for the following reasons:

1. The connection to urban services outside an urban area conflicts with Section 1.6.6.2 of the PPS;
2. The application conflicts with Parts 2.2.1, 2.12.7, and 2.12.8 of the NEP, which do not permit the extension of urban services into Escarpment Rural Area

Note:

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

**M809R6/06-2021:**

*Moved By: Clark*

*Seconded By: Hutcheon*

*“That the Commission approve Development Permit Application W/R/2014-2015/289 with Conditions of Approval for the following reasons:*

1. *The City of Hamilton has no objection to the proposed connection to municipal sewers since development along an urban-rural boundary road (i.e., Jerseyville Road West) is permitted to connect to municipal services;*
2. *The proposed connection to municipal sewer is consistent with the intent of Part 2.12.8, which allows for existing development to connect to municipal water and wastewater systems that already exist within Escarpment Rural Area, within an approved service area boundary.”*

**CONDITIONS OF APPROVAL W/R/2014-2015/289**

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. 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 facilities 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 July 1, 2011;
13. Surveyed location and inventory of vegetation to be removed and the general location of the replanting.

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 and the City of Hamilton, a **Grading Plan** prepared by a qualified professional demonstrating that all drainage from the site shall be taken to a suitable outlet.
2. **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 and the number of storeys. Upon approval, these plans will be stamped “NEC Approved” and shall form part of the Development Permit referred to in Condition # 1.
3. **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 and the City of Hamilton, a **Vegetation Protection Plan** (VPP) to be prepared by a qualified person showing the location of drip lines, edges and existing plantings, the location of all existing trees and the methods to be employed in retaining trees required to be protected.
4. This conditional approval expires 18 months 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.

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

**For the Motion: 14 votes**

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

**Against the Motion: 1 vote**

Driedger.

***Motion Carried***

NOTE: Commissioner Downey was absent and did not vote.

**Discussion:**

The Commission noted that in this case, the ability to connect to the municipal sewer system is more ecologically sound as the infrastructure is already in place, there was previous approval for the property to connect, the connection will limit the risk of septic system failure and will eliminate the need for pumping to maintain a private septic system.

Note: The property owner presented and answered questions.

BREAK: 2:00 p.m. to 2:15 p.m.

## C1:

## Staff Report

Proposed Land Use Compatibility Guideline

Environmental Registry Posting 019-2785

## Recommendation:

That the Niagara Escarpment Commission (NEC) endorse the draft letter attached as Appendix 1 to this Staff Report and direct staff to submit the comments to the Ministry of Environment, Conservation and Parks (MECP) before the Environmental Registry

deadline on July 2, 2021.

Note:

Nancy Mott, Senior Strategic Advisor, provided a brief review of the staff report and answered questions from Commission members. She noted that summer student Rameez Sadafal assisted with the research and drafting of the report.

**M809R7/06-2021:**

*Moved By: Witteveen*

*Seconded By: Burton*

*“That the Commission approve the staff recommendations to endorse the draft letter attached as written and direct staff to submit the comments to the Ministry of Environment, Conservation and Parks (MECP) before the Environmental Registry deadline on July 2, 2021.”*

**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:**

A Commissioner noted concern that there is no opportunity to ensure there is compatibility between new land uses adjacent to agricultural uses. Staff advised that Minimum Distance Separation Formulae do address this to a degree, and that this and other analysis is included in staff’s review of applications.

## C2:

## INFORMATION REPORT

## Use of Agreements on Title by the Niagara Escarpment Commission

## Recommendation:

That the Commission receive this report for information.

**Note:**

Kim Peters, Manager, provided a brief review of the staff report and answered questions from Commission members.

**M809R8/06-2021:**

*Moved By: Curley*

*Seconded By: McKinlay*

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

**For the Motion: 11 votes**

Burton, Clark, Curley, Driedger, Golden, Horner, Hutcheon, Krantz, Mackenzie, McKinlay.

**Against the Motion: 5 votes**

Downey, Gibson, Lucyshyn, McQueen, Vida, Witteveen.

***Motion Carried***

**Discussion:**

The Commission discussed the role of NEC entering into agreements that are registered on title in relation to other legal tools, e.g., municipal undertakings.  Some Commissioners felt that NEC agreements on title were additional red tape and financial impediments for property owners due to the need for lawyers.

Other Commissioners felt that agreements on title assisted the NEC in ensuring compliance with the NEP by notifying future landowners of the restrictions on the use of accessory buildings when purchasing property.

**A3:**

**STAFF REPORT**

### Development Permit Application H/R/2020-2021/386

3324 Guelph Line, City of Burlington, Region of Halton

**Proposal:**

To demolish a one-storey, ±38.02 sq m (±409.24 sq ft) portion of an existing dwelling (previous addition) and a second-storey ±9.06 sq m (±97.5 sq ft) deck, and to construct a new one-storey, ±124.55 sq m (±1340.64 sq ft) dwelling addition (to function as a secondary dwelling/housekeeping unit), including a new second-storey ±17 sq m (±182 sq ft) deck, on an existing 1.03 ha (2.56 ac) lot.

## Recommendation:

The proposal be approved subject to the following Conditions:

1. Development shall occur in accordance with the Site Plan 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. 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.
4. 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.
5. 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.
6. All waste materials generated from the demolition shall be completely removed from the property (e.g., taken to an approved landfill site, savage/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).
7. **Prior to the issuance of a Development Permit by the Niagara Escarpment Commission**, confirmation that the previously approved consents for lot additions have been amalgamated on title with the Land Registry Office shall be submitted to the satisfaction of the NEC and the Region of Halton.
8. **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 Site Plan shall include, but not be limited to the following:
   1. The Final Site Plan shall be prepared by a qualified professional;
   2. 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 include the name of the relevant individual or consultant who prepared the drawing;
   3. Outline of the approved development envelope / extent of all disturbed areas;
   4. Location of all existing and proposed structures, sewage disposal system, well/cistern, driveway, construction access / haul routes, exterior lighting, etc. showing setbacks from the property lines, any watercourses or water features, top / bottom of slope, wooded areas, etc.;
   5. 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.
   6. 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;
   7. Identify the areas of existing vegetation to be retained, areas of vegetation to be removed, and the location of proposed plantings.

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 landowner shall submit for the approval of the Niagara Escarpment Commission, final construction details for the proposed development, including removal of kitchen, exterior elevations, total floor area, floor plans, height to roof peak from lowest grade, and any exterior lighting.

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**, the Landowner shall enter into an Agreement under Section 24(2.1) of the Niagara Escarpment Planning and Development Act, in a form acceptable to the Niagara Escarpment Commission. The agreement shall be registered on title of 3324 Guelph Line, being Part Lot 16, Concession 1 NDS (Nelson), City of Burlington, at the Landowner’s expense, stating that no addition to the single dwelling shall be used as a separate dwelling unit or as a short or long-term vacation rental. The Landowner shall provide proof satisfactory to the Niagara Escarpment Commission that the agreement has been registered against the lands [i.e., copy of the parcel registry extract and a letter from the Landowner’s solicitor that the registration is complete], and that the Landowner under this Development Permit is the Landowner of the lands at the time of registration. The agreement shall not preclude the owner, or subsequent landowners, from applying for further Development Permits in future in accordance with the NEP as amended from time to time.
2. This conditional approval expires 18 months (1.5 years) from the date of confirmation of the decision to approve the Development Permit. Conditions #7, 8, 9 and 10 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. Should deeply buried archaeological remains/resources be found on the property during construction activities, the Ministry of Heritage, Sport, Tourism and Culture Industries be notified immediately. In the event that human remains are encountered during construction, the owner shall immediately notify the police.
3. The Niagara Escarpment Commission supports the protection of the night sky from excessive residential 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)

Note:

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

**M809R9/06-2021:**

*Moved By: Burton*

*Seconded By: Driedger*

*“That the application be approved with modifications to the proposal, which should read as follows:*

*To demolish a one-storey, ±38.02 sq m (±409.24 sq ft) portion of an existing dwelling (previous addition) and a second-storey ±9.06 sq m (±97.5 sq ft) deck, and to construct a new one-storey, ±124.55 sq m (±1340.64 sq ft) dwelling addition including a new second-storey ±17 sq m (±182 sq ft) deck, on an existing 1.03 ha (2.56 ac) lot,*

*And that Condition 9, as amended by the Commission, should read as follows:*

***Prior to the issuance of a Development Permit*** *by the Niagara Escarpment Commission, the landowner shall submit for the approval of the Niagara Escarpment Commission,* ***final construction details*** *for the proposed development, including exterior elevations, total floor area, floor plans, height to peak from lowest grade, and any exterior lighting.”*

**For the Motion: 14 votes**

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

**Against the Motion: 0 votes**

None.

***Motion Carried***

NOTE: Commissioners Hutcheon and Krantz were not present and did not vote.

**Discussion:**

The Commission discussed how to ensure compliance with the NEP while respecting the specific accessibility requirements of the applicant and ensuring that the addition does not become a secondary dwelling unit in future.

**A2:**

**STAFF REPORT**

### Development Permit Application W/R/2020-2021/132

155 Winona Road, City of Hamilton (former City of Stoney Creek)

## Proposal:

To construct a two-storey, ±282.74 square metres (±3,043 square feet) accessory structure (a garage with space for human habitation on the second floor) having a height of ±10.1 metres (±33.14 feet) on an 8-hectares (19.77 acres) lot. The garage is connected to the dwelling via a breezeway.

## Recommendations:

That the application be **refused** because:

1. Secondary dwelling units are not listed as a permitted use in Escarpment Protection Area, as per Part 1.4.3 of the NEP; and
2. The definition of “accessory facilities” in Appendix 2 of the NEP precludes their use for human habitation.

**Note:**

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

**M809R10/06-2021:**

*Moved By: McKinlay*

*Seconded By: Lucyshyn*

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

***Motion Carried***

Note: Commissioner Krantz was not present and did not vote.

**M809R11/06-2021:**

*Moved By: Witteveen*

*Seconded By: Burton*

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

***Motion Carried***

Note: Commissioner Krantz was not present and did not vote.

**M809R12/06-2021:**

*Moved By: Burton*

*Seconded By: Gibson*

**“***That counsel for the applicant be invited to address the Commission.”*

***Motion Carried***

Note: Commissioner Krantz was not present and did not vote.

**M809R13/06-2021:**

*Moved By: Vida*

*Seconded By: Lucyshyn*

“*That the Commission approve the applicant’s original proposal (October 2020) for a*  *two-storey, 472 square metre* *detached garage with recreational space above, subject to the October 2020 recommended conditions of approval, with Condition #9 revised to require an undertaking to the satisfaction of the Niagara Escarpment Commission, and that the applicant provide a copy of the declaration signed by the applicant with the City of Hamilton”*

**REVISED Conditions of Approval 21-132 Basciano**

1. Development shall occur in accordance with the Site Plan, Development Permit and Conditions as approved.

1. The Development Permit shall expire three years from its date of issuance unless the development has been completed in accordance with the Development Permit.
2. 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.
3. 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.
4. 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.
5. 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.
6. **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:
7. 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;
8. An accurate delineation of the approved development envelope with temporary fencing;
9. The accurate location of all structures, municipal services and driveway within the development envelope showing setbacks from the property lines, watercourse, top/bottom of slope, wooded areas, etc.;
10. Extent of all disturbed areas;
11. 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 July 1, 2011; and
12. 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.

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

1. **Prior to the issuance of a Development Permit by the Niagara Escarpment Commission**, the Landowner shall sign and deliver an undertaking to the satisfaction of the Niagara Escarpment Commission that commits the landowner to not using any accessory structure on the subject property for human habitation, and that in the future, prospective buyers of the property will be informed that accessory structures are not permitted to be used for human habitation. A copy of the signed Declaration provided to the City of Hamilton shall also be provided to the Niagara Escarpment Commission.
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 conditional approval expires eighteen months (1.5 years) from the date of confirmation of the decision to approve the Development Permit application. Conditions # 7, 8, and 9 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. **Caution:** Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential.  Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact the police.

**For the Motion: 13 votes**

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

**Against the Motion: 2 votes**

Golden, Mackenzie.

***Motion Carried***

Note: Commissioner Krantz was not present and did not vote.

**Discussion:**

The applicant requested a modified proposal be approved with an undertaking with NEC to negate the need for an agreement on title. The Commission agreed that in this case, the modified proposal and undertaking were sufficient to ensure compliance with NEP.

Note: The applicant’s agent presented and answered questions.

The applicant’s counsel answered questions.

## CONSENT AGENDA/ITEMS MOVED FOR DISCUSSION:

Information only Items

G2 Appeals and Hearings Status Chart as of June 3, 2021

G3 Director’s Report: June 2021

G4 Plan Amendments Status Update as of June 3, 2021

**M809R14/06-2021:**

*Moved by: Horner*

*Seconded by: Clark*

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

***Motion carried.***

Note: Commissioner Krantz was not present and did not vote.

### Discussion:

None.

**C3:**

**Addendum 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.

**M809R15/06-2021:**

*Moved By: Burton*

*Seconded By: McKinlay*

*“That the Commission endorse the amended Meeting Procedures dealing with ‘Notice of Motion’, with the modification to require the Commission vote on waiving Notice of Motion requirements with a two-thirds majority vote.”*

***Motion Carried***

Note: Commissioner Krantz was not present and did not vote.

**Discussion:**

A Commissioner asked if the Notice of Motion procedure would preclude the ability to add requests for future meetings and was advised that it would not.

## NEW BUSINESS

The Chair advised the Commission that John Stuart has accepted a position in another organization, and thanked him for his dedication and hard work with the NEC.

A Commissioner requested an update on a compliance matter. The Director advised that time would be scheduled in the July agenda to address the request.

## ADJOURNMENT

**M809R16/06-2021**

*Moved By: McKinlay*

*“That this meeting be adjourned.”*

***Motion Carried***

Note: Commissioner Krantz was not present and did not vote.

Time of Adjournment: 4:50 p.m.

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Rob Nicholson

Chair