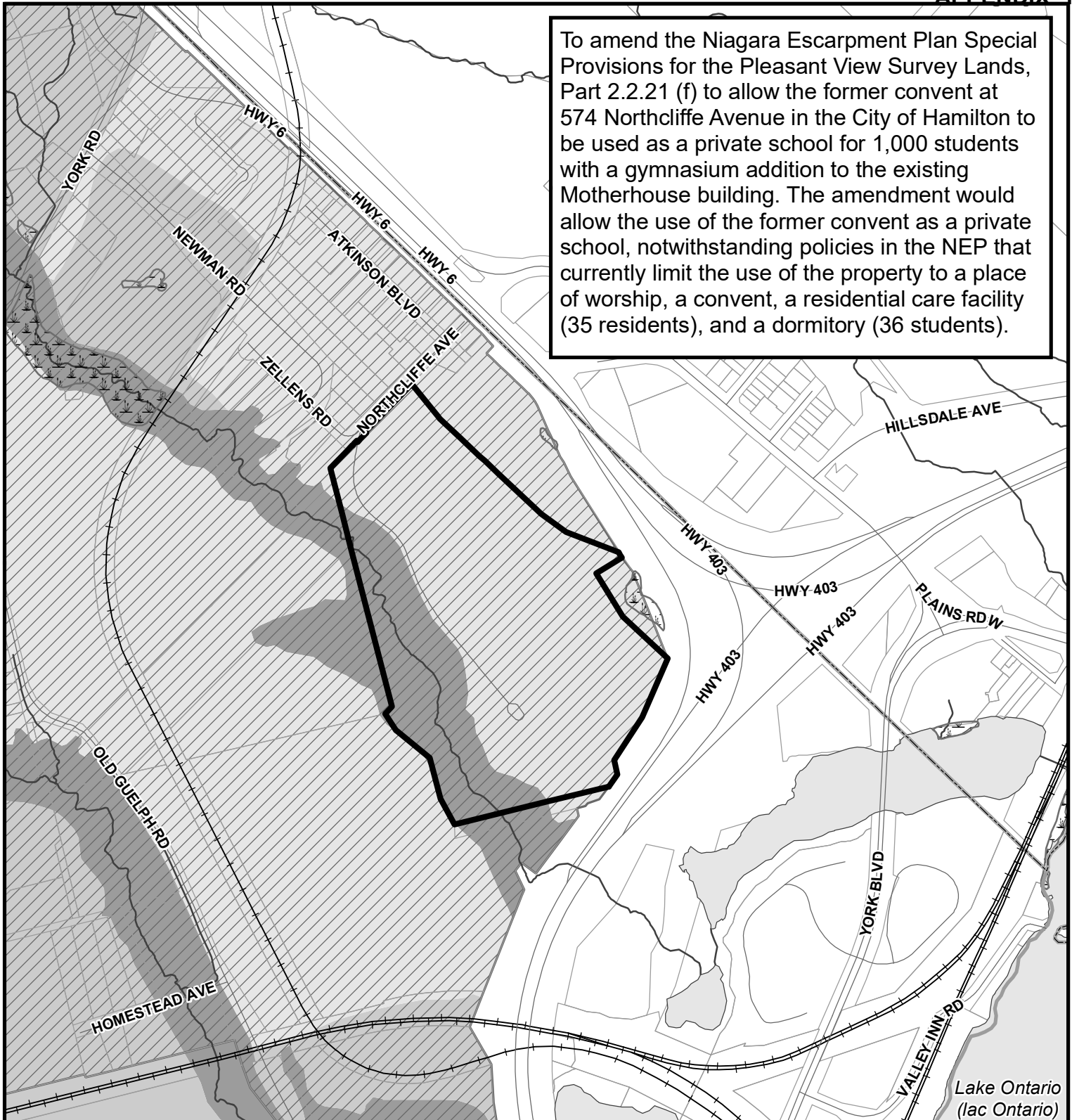


To amend the Niagara Escarpment Plan Special Provisions for the Pleasant View Survey Lands, Part 2.2.21 (f) to allow the former convent at 574 Northcliffe Avenue in the City of Hamilton to be used as a private school for 1,000 students with a gymnasium addition to the existing Motherhouse building. The amendment would allow the use of the former convent as a private school, notwithstanding policies in the NEP that currently limit the use of the property to a place of worship, a convent, a residential care facility (35 residents), and a dormitory (36 students).



## SCHEDULE A

### Map of Lands Subject to Proposed Amendment 574 Northcliffe Ave, City of Hamilton

- |                               |                        |
|-------------------------------|------------------------|
| Area Subject to the Amendment | Special Provision Area |
| Waterbodies                   | Unevaluated Wetlands   |
| Watercourse                   |                        |

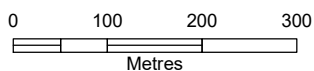
#### Plan Designations

- Escarpment Natural Area
- Escarpment Protection Area
- Escarpment Rural Area

The Niagara Escarpment Plan Designations shown on this map are approximate and subject to confirmation through site inspection and the application of the "Interpretation of Boundaries" section of the Niagara Escarpment Plan.

This map is not a legal document and may contain errors or omissions.

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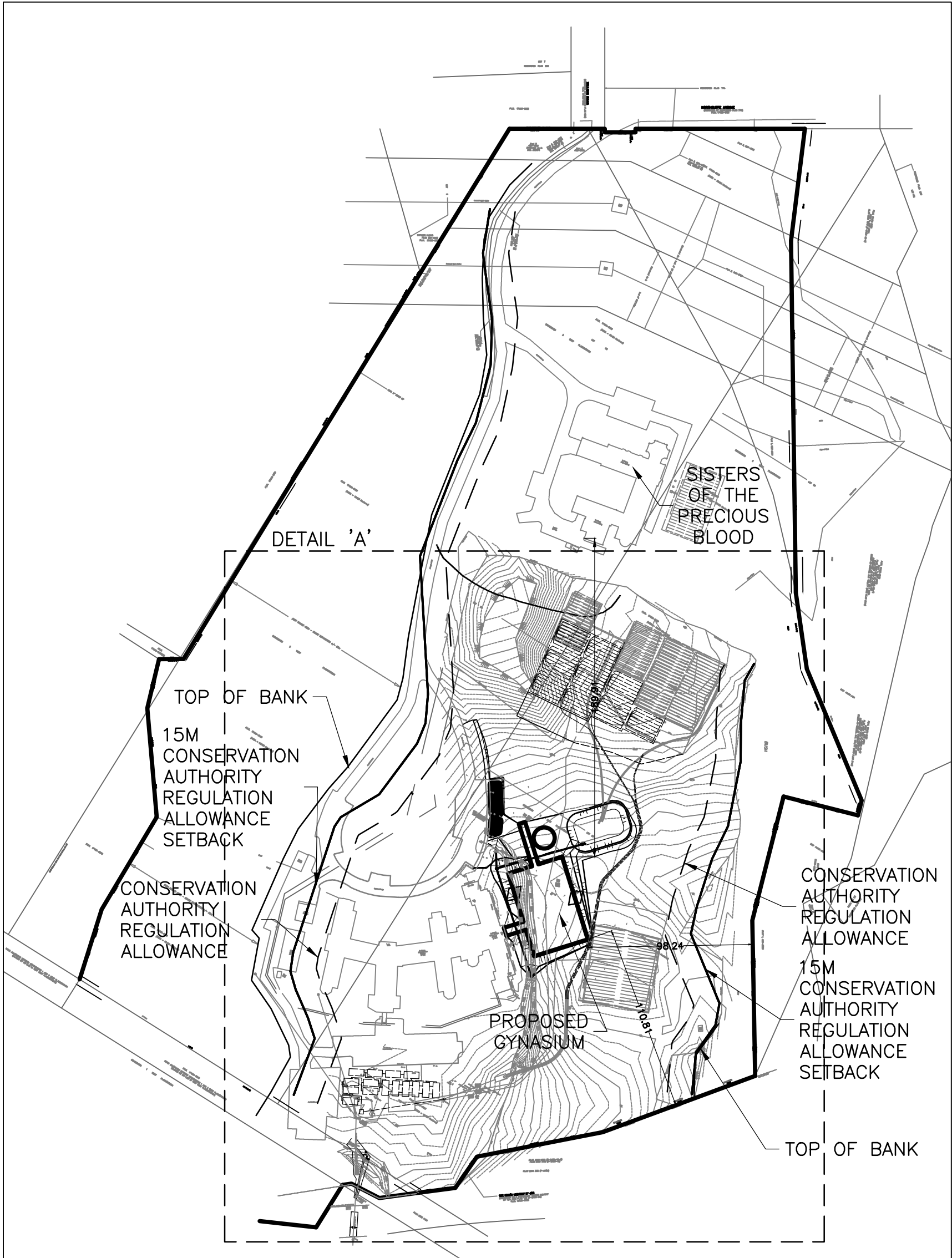
Oct. 24th, 2022



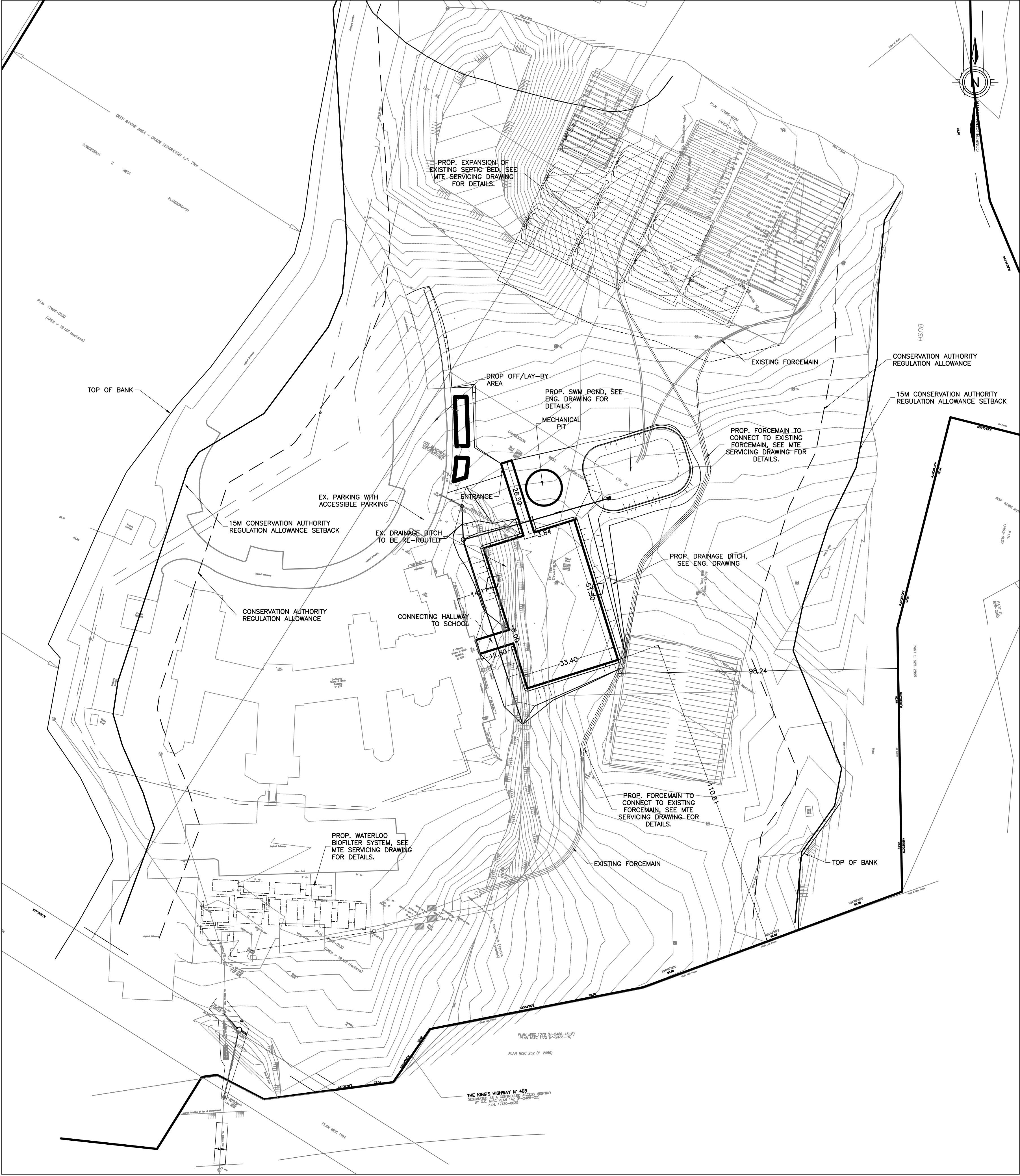
SOURCE:  
Base derived from the Ontario Digital Topographic Database, Scale 1:8000

Map Compiled and Produced by the Geographic Information Systems (GIS) Department of the Niagara Escarpment Commission, Ministry of Natural Resources and Forestry

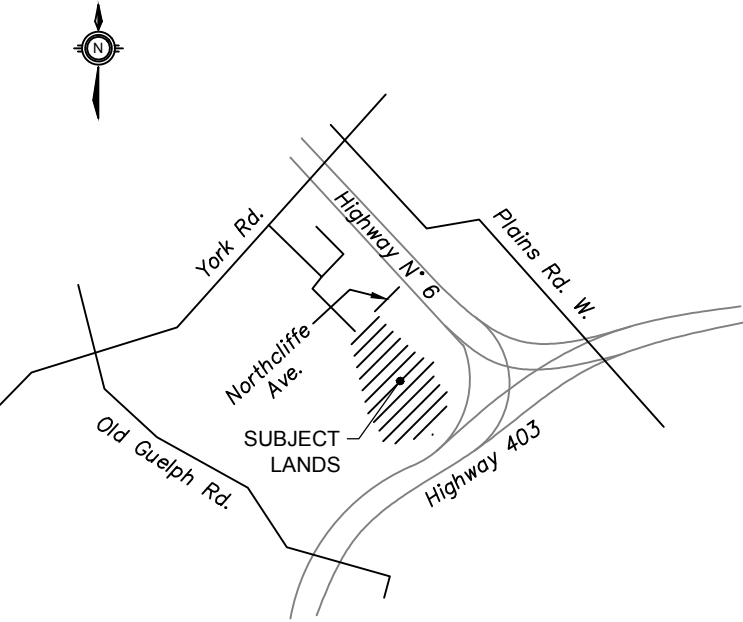
FULL SITE



DETAIL 'A'



DEVELOPMENT DETAILS			
CURRENT ZONING	PUBLIC AND PRIVATE SERVICE ZONE (PPS-56) (BYLAW No. 3581-86)		
PROVISIONS	REQUIRED	PROPOSED	MODIFIED
8.3.1 PERMITTED USES	EDUCATIONAL ESTABLISHMENT		X
8.3.2.2 (a) MIN. SIDE & REAR YARD	6.0 m	98.24 m	X
8.3.2.2 (b) MAX. BUILDING HEIGHT	18.0 m	TBD	X
8.3.2.2 (c) LOCATION OF MULTIPLE DWELLING AND LODGING HOUSE	PERMITTED ON THE SAME LOT AS AN EDUCATIONAL ESTABLISHMENT	N/A	X
5.0 PARKING			
5.1 (a)(v)(a) PARKING AREA FROM A STREET LINE	MIN. 3.0 m	PROVIDED	
5.1 (a)(v)(b) PLANTING STRIP TO BE MAINTAINED BETWEEN THE STREET LINE AND PARKING OR AISLE	MIN. 3.0 m	PROVIDED	
5.2 (b)(i) MIN. PARKING STALL SIZE	3.0 m X 5.8 m	3.0m X 6.0m	
5.2 (i) MIN. PARKING AISLE WIDTH	6.0 m	6.0 m	
5.5 BARRIER FREE PARKING		TBD	
5.6 (c) iii. (b) EDUCATIONAL ESTABLISHMENT	3 FOR EACH CLASSROOM PLUS 1 FOR EACH 7 SEAT CAPACITY IN AN AUDITORIUM, THEATRE OR STADIUM	TBD	X
4.8 ACCESSORY BUILDING			
4.8.1 (a) NO ACCESSORY BUILDING SHALL BE LOCATED WITHIN A FRONT YARD		PROVIDED	
4.8.1 (g) ACCESSORY BUILDINGS GREATER THAN 18.0 m² OF GROSS FLOOR AREA SHALL CONFORM TO THE REGULATIONS OF THE PRINCIPLE USE		PROVIDED	
4.9 MECHANICAL AND UNITARY EQUIPMENT	(a) WITHIN REQUIRED FRONT YARD (b) WITHIN A REQUIRED SIDE YARD OR REAR YARD	MIN. 3.0 m SETBACK FROM STREET LINE MIN. 0.6 m FROM A SIDE LOT LINE & SCREENED FROM STREET MIN. 0.6 m SETBACK FROM THE SIDE LOT LINE OR REAR LOT LINE	PROVIDED PROVIDED



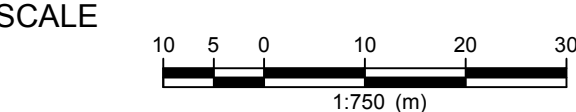
KEY MAP - N.T.S.

LEGEND

APPENDIX 2

NOT FOR CONSTRUCTION

SOURCE:  
SURVEY PROVIDED BY CUNNINGHAM MCCONNELL LIMITED ONTARIO  
LAND SURVEYORS, DATED DECEMBER 18, 2018.  
BENCHMARK  
ALL ELEVATIONS SHOWN HEREON ARE GEODETIC AND WERE  
DERIVED FROM THE GPS OBSERVATION BEING NEAR KITCHENER  
GEIOD MODEL CGVD - 1928, 1978 ADJUSTMENT.



DESIGN BY: LINDTACK  
DRAWN BY: S. CHALMERS  
CHECKED BY: J. JARIENS  
DATE: 2019 04 08

#	DATE	BY	DESCRIPTION
2	2023/08/29	SC	UPDATED AS PER MTE SERVICING DRAWINGS
1	2019/10/15	SC	FIRST SUBMISSION TO THE NEC
0	2019/10/03	SC	FIRST ENGINEERING SUBMISSION

DRAWING ISSUE RECORD

APPROVALS



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CITY OF  
HAMILTON

PRIVATE HIGH SCHOOL  
574 NORTHLIFFE AVENUE,  
HAMILTON, ON

SITE PLAN

FILE NUMBER: 115266 SHEET NUMBER: SP1

## APPENDIX 3

June 16, 2005

### **ADDENDUM - POLICY REPORT**

**RE: Urban Uses Definition Respecting Amendments to the  
Niagara Escarpment Plan Pursuant to the *Niagara Escarpment  
Planning and Development Act***

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#### **Topic:**

The *Niagara Escarpment Planning and Development Act* (NEPDA), as a result of consequential amendments introduced through the *Greenbelt Act, 2005* provides the Minister of Natural Resources with authority to define "urban uses" for the purpose of administering the NEPDA under Section 23 of the Act.

The changes to the NEPDA prohibit any request to amend the Escarpment Natural Area, Escarpment Protection Area, Escarpment Rural Area and Mineral Resource Extraction Area of the Niagara Escarpment Plan (NEP) to allow urban uses. This provision remains until the Plan is open for review in 2015, at which time new urban uses may be considered. Following the Review, the window would once again be closed to urban amendments until the next Review.

As noted in the earlier staff report,

- *In the absence of a Minister's Regulation, the NEC should have in place its own administrative definition for urban uses to ensure consistency in vetting Amendment applications as they come forward. This will provide a level of openness and fairness to applicants who will want to know on what basis an amendment may be rejected.*

#### **Background:**

The Niagara Escarpment Commission (NEC) reviewed the attached Policy Paper (P1(b)) at its April 20, 2005 Policy meeting. The Commission directed that staff consider the discussion and comments of the Commissioners and prepare appropriate revisions for the June 2005 meeting. The staff has also had the opportunity to consider the matter in more detail and has had the informal input of several Commissioners.

As well, since that time, the NEC made a specific determination on a pending Plan Amendment at the May 19, 2005 Commission meeting. The Grey Roots application (Amendment 157) involved the expansion of existing museum facilities and related pioneer period village. The use was originally established under a previous Plan Amendment filed by Grey County to display and protect its rural roots and heritage. The decision was that the proposal could proceed in the absence of the approved policy defining "urban uses" since the Commission was satisfied that the Plan change did not involve an "urban use". The NEC was of the view that the use proposed could only be offered in a rural setting and was therefore not an urban use.

The Aggregate Producers Association of Ontario (APAO) has also since provided a written submission on the proposed policy, as has one other landowner (the Albright Centre in The Town of Lincoln). Copies of these submissions are attached.

In the case of the APAO, the Association wished to ensure that:

- new pits and quarries would continue to be considered by amendment in the Escarpment Rural Areas;
- accessory uses such as asphalt plants and concrete batching plants commonly associated with pits and quarries would not be considered urban uses and that these types of existing facilities would remain unaffected; and
- aggregate recycling, reprocessing or blending would continue to be allowed as part of an extraction operation.

The APAO is also concerned that the "urban uses" policy was being defined too broadly and that it would prevent the processing of innovative after-use amendments on the premise that they were urban in nature. Examples included educational facilities related to agriculture, recreation or tourism. The APAO additionally submitted that urban infrastructure and systems (such as some waste treatment facilities or heating and cooling systems) that were environmentally beneficial should not be prohibited by an administrative definition. In the APAO's view the policy required increased flexibility to prevent the dismissal of reasonable applications, appropriate in a rural area.

The Albright Centre retirement community in Lincoln is concerned that the policy will prevent their planned future expansion to the senior's campus. The Centre has expressed the opinion that as an existing use, they require special consideration since the facility predates the NEP as an existing urban/institutional use already outside the Town's urban boundary. The expansion to the community has been planned for a significant period of time and has been endorsed, subject to an NEP amendment, in principle, by the Town in its proposed new Official Plan. The Centre submitted that the use is reasonable and appropriate on a 17 ha (42 acre) rural site and should not be dismissed given the societal needs of a growing elderly population. Therefore, they

submitted, provision should be made to allow the Albright Centre the continuing right to have its amendment processed.

### **Comments:**

Flowing from the original NEC meeting, a key factor to be kept in mind, which has been confused, is that the "urban uses" prohibition only applies if, in the first instance, an amendment is required to the NEP. Urban types of uses already permitted under the Plan will continue to be processed through Development Permits. These may include small-scale industrial and commercial uses, small-scale institutional uses, small-scale commercial uses accessory to agriculture, home businesses, golf courses and various recreational uses in the designations of the Plan where these are currently permitted.

Where amendments are processed, in existing Urban, Minor Urban and Escarpment Recreation Areas or in designations outside of such areas where new urban uses are not being proposed, these are still subject to meeting the tests normally applied to all amendments (e.g., planning justification, satisfying the public interest, meeting the purpose and objectives of the NEPDA). Therefore, deeming an amendment to not be an urban use does not necessarily translate into endorsement or ultimate approval of such an amendment.

Regardless of how the NEC defines "urban uses," some ongoing interpretation will be required. Proponents will continue to request the opportunity to try and convince the Commission that their applications are unique and therefore should be exempted or should not be considered an urban use because of its special characteristics. As well, there will likely be some applications that are difficult to categorize and NEC input will be necessary. There may also be instances where neighbours or interested parties wish an application to be identified as an urban use so that processing would be prevented. In all instances the final decision would be the NEC's, based either on its definition or one which may eventually be put in place by the Minister of Natural Resources through Regulation.

The issues raised by the NEC at its April 20, 2005 meeting included:

1. Ensuring that recycling of aggregate materials was permitted where it was part of a mineral extraction operation.
2. Allowing for amendments to be made for asphalt plants, concrete batching plants or other similar uses related directly to on-site mineral extraction.
3. Allowing flexibility for land use redesignation in worked out pits and quarries.
4. Clarifying whether or not golf courses were an urban use.
5. Clarifying whether or not non-intensive ski hills/trails and other rural oriented recreation and tourist destination uses will be allowed.
6. Clarifying whether or not raceways would prevent tracks being established on horse farms.

7. Ensuring that public utilities could be extended to address environmental problems or allowing connections to existing uses where servicing already exists outside of urban areas.
8. Addressing the issue of "monster homes" as an urban use.
9. Dealing with expansions to existing uses that are already urban in nature or have already been permitted under a previous Plan amendment.

These issues, in part, mirrored those raised in comments to the NEC by the APAO and Albright Manor.

Staff remains of the opinion that the definition should be cast in very broad terms and through specific exclusions tailor the policy to provide guidance in specific instances where there is a question of whether the use is rural or urban in nature. The more scoped or specific the definition, the more numerous the requests for flexibility or exception to the policy.

In terms of the points raised above, most of the issues can be addressed in a revised policy. This would include clarifying that aggregate recycling and uses accessory to aggregate mining are not "urban uses" subject to location and timing requirements. Amendments involving the redesignation of pits and quarries to a compatible after-use should be permitted with limitations on what can be applied for. Such redesignation should not include "urban uses" other than those already prescribed in an Escarpment Natural, Protection or Rural designation.

Golf courses have been defined as an "urban use" which will restrict them to Escarpment Rural Areas and Mineral Resource Extraction Areas, where they are currently permitted.

Staff is satisfied that the proposed definition does not capture non-intensive recreational or rural uses (e.g., ski trails and passive recreational uses) and farm related facilities (e.g. horse tracks). These are dealt with under the current permitted use provisions of the Plan.

The policy, as written, already provides for water and sewer services where it has been determined that an environmental or health issue must be addressed.

Large dwelling (i.e., "Monster homes") have traditionally been considered on a site by site basis (e.g., lot size, location, visual impact, compatibility) since the Plan was approved. The NEC has no formal upset limit on how large a home can be. The Plan is silent on the matter and lists a single dwelling as a permitted use in all designations. Taken to the extreme any home could be considered an urban use. It is recommended that the current practice of individually assessing the home based on the site where it is proposed using the Development Criteria of the Plan be continued. To define a large dwelling as an "urban use" would seem arbitrary without further NEC evaluation and study, including the possible processing of an amendment to the Plan to set a size limit.

Existing uses present a particular difficulty when a pre-existing "urban use" is involved or an "urban use" which has been introduced through a past Plan Amendment. The Plan provides for modest expansion subject to the Development Criteria in the NEP. Larger expansions require a Plan amendment. With no exception built into in the "urban uses" policy, expansions could only be considered at the Plan Review in 2015. The objective, however, is to limit urban intensification in the Plan area regardless of whether it involves a new use or an existing use. Although there is merit to considering some expansions to existing uses (e.g., recent NEC endorsement of Grey Roots Amendment application), on balance it is staff's view, that it would significantly weaken the "urban uses" definition and intent of the changes introduced to the NEPDA through the *Greenbelt Act, 2005*. To specifically provide for expansions to existing urban uses also invites exceptions to the policy, since all existing uses would be eligible to file amendments regardless of their history or situation. This would constitute an ongoing weakness, throughout the Plan to the prohibition on amendments for "urban uses."

However, although it is not recommended, should the NEC wish a policy to cover existing uses, the following wording is recommended as an addition to the revised "urban uses" policy attached to this Addendum Report:

- Notwithstanding (a) to (i) above, those "urban uses" which satisfy the definition of existing uses under the Niagara Escarpment Plan or were introduced as an exception to the Plan's permitted uses through an amendment to the Plan, are excluded for the purpose of considering an amendment to expand the existing use or change the terms of an approved amendment, provided the designation is not changed and the use does not involve expansion or alteration of an existing landfill or waste disposal site as defined in the Niagara Escarpment Plan.

Additionally, it is not recommended that single residential severances or the development of an existing lot of record be identified as an "urban use." A single severance or the development of an existing lot of record in the rural area would not normally be considered an "urban use." The amendment process, set out under the NEPDA, can adequately address these types of proposals. Such applications will only be initiated where there is a planning justification and a public interest has been identified.

## **RECOMMENDATION:**

1. adopt the attached Policy on defining "urban uses" to be used for administration of Section 6.1(2.2) of the *Niagara Escarpment Planning and Development Act* respecting the processing of Amendment application.
2. provide the Policy to the Ministry of Natural Resources and the Minister for consideration as the Regulation provided for under Section 23(e) of the *Niagara Escarpment Planning and Development Act* to define "urban uses".

3. monitor the administration and operation of the Policy on an ongoing basis and consider revisions should the "urban uses" definition not prove effective.

---

Ken Whitbread  
Manager

C/KW/ Urban Uses Regulation Policy Report June 16 05

## **Appendix 1**

**June 16, 2005**

### **POLICY FOR URBAN USES MADE TO ADMINISTER SECTION 6.1(2.2) OF THE NIAGARA ESCARPMENT PLANNING AND DEVELOPMENT ACT**

This policy applies in the absence of a Regulation made by the Minister of Natural Resources under Section 23(e) of the *Niagara Escarpment Planning and Development Act* defining urban uses.

Section 6.1(2.2) prevents the consideration of any request to amend the Niagara Escarpment for an "urban use" in the Escarpment Natural Area, Escarpment Protection Area, Escarpment Rural Area and Mineral Resource Extraction Area designations, where such an amendment is required to permit the "urban use".

The definition, as set out below, is therefore intended to address those "urban uses" not already identified by the Niagara Escarpment Plan as permitted uses in the Escarpment Natural Area, Escarpment Protection Area, Escarpment Rural Area and Mineral Resource Extraction Area designations. Urban uses already identified in the Niagara Escarpment Plan are not affected by this definition, since they do not require an amendment to the Plan; therefore the policy will have no effect on those urban uses.

### **URBAN USES**

"Urban Uses" includes the following,

(a) Commercial and industrial land uses, excluding

- mineral extraction operations and associated accessory uses, including processing, manufacturing and recycling and reprocessing facilities as provided for by amendment from the Escarpment Rural Area designation to the Mineral Resource Extraction Area designation in the Niagara Escarpment Plan, and
- accessory uses, including processing, manufacturing and recycling and reprocessing facilities associated with mineral extraction operations, which are located in the Mineral Resource Extraction Area designation of the Niagara Escarpment Plan.

Notwithstanding the exclusions above, all accessory uses associated with a mineral aggregate operation will only be considered on the basis that they are proposed as temporary and will remain in place only for the duration of the mineral extraction operation.

(b) Institutional land uses, and

- (c) multiple residential, or land uses that have a mix of residential units with another type of land use, and
- (d) recreational and tourist destination land uses such as downhill ski centres, lakeshore cottage areas, resort or lodge development, raceways, hotels, casinos, golf courses, golf course driving ranges, including retail operations and service establishments associated with such uses, and
- (e) systems and infrastructure such as sewers, mains, water pipes, and other services associated with public utilities, excluding systems and infrastructure where it has been determined by a medical officer of health (or health authority) that there is a public health concern that must be addressed, and
- (f) waste disposal or landfill sites, incineration sites, waste recycling sites, sewage treatment sites and facilities associated with such sites, excluding the recycling or reprocessing of mineral aggregate resources and aggregate materials within an approved Mineral Resource Extraction Area designation in the Niagara Escarpment Plan, and
- (g) multiple lot creation by way of plan of subdivision, consent to sever or plan of condominium, and
- (h) land uses that would normally be found within the land use designations of Minor Urban Centre, Urban Area or Escarpment Recreation Area in the Niagara Escarpment Plan, and
- (i) land uses that would normally be found within a designation in a municipal official plan for an area of settlement such as an urban area, urban policy area, town, village, hamlet, rural cluster, rural settlement area, urban system, rural service centre, future urban use area or designated growth area.

Notwithstanding (a) to (i) above, those "urban uses" which are currently permitted under the Escarpment Natural Area, Escarpment Protection Area and Escarpment Rural Area designations, not specifically introduced as part of a past Niagara Escarpment Plan Amendment or exception, are excluded for the purposes of amending a Mineral Resource Extraction Area in the Niagara Escarpment Plan to any one of those designations, provided additional "urban uses" are not included in any such amendment.

October 15, 2008

## **POLICY REVIEW REPORT**

**RE: Urban Uses Definition Respecting Amendments to the Niagara Escarpment Plan Pursuant to the *Niagara Escarpment Planning and Development Act***

---

### **Topic:**

The Niagara Escarpment Commission (NEC), in the absence of a Minister's Regulation defining Urban Uses, adopted a Policy on June 16, 2005 to address the matter. The Urban Uses definition as set out in the Policy was to be used for the administration of Section 6.1(2.2) of the *Niagara Escarpment Planning and Development Act* (NEPDA) respecting the processing of Niagara Escarpment Plan Amendment Applications. The approved Policy is attached as Appendix 1.

On June 19, 2008 the NEC indicated that it would discuss the Policy at its October 15, 2008 Policy meeting and make a determination as to whether or not the Policy required change.

**Summary Recommendation:** Confirm existing Urban Uses Policy.

### **Recent Background:**

The latest catalyst for this discussion was related to the NEC initiation of the Plan Amendment for the redesignation of the Queenston Quarry (No. 171) from Mineral Resource Extraction Area to Escarpment Rural Area. In an earlier determination, the NEC had decided that the Amendment could not include an exception to permit a serviced hotel/resort/spa/recreational complex within the proposed Escarpment Rural Area (outside of the Minor Urban Centre as set in 1998 by the OMB) because this component of the proponent's concept plan was an Urban Use as defined by the Policy. Other parts of Amendment No. 171 could proceed since the proposed Escarpment Rural Area designation made allowance for the remaining uses including a vineyard, a winery, a golf course, an equestrian centre, outdoor recreational fields and hiking trails. As well, in principle, the lands within the Minor Urban Centre of St. David's, covering a

portion of the Queenston Quarry lands, could be considered for residential or other urban uses typically found within a Minor Urban Centre.

On a related matter, the proponent (because of the NEC decision to not accept the serviced hotel/resort/spa/recreational complex) has proposed for agency consideration a boundary revision to St. David's, significantly redefining the Minor Urban Centre to include the "complex" in the new boundary while excluding areas of the Minor Urban Centre which were not seen as developable. The revised boundary would slightly decrease the 12 hectares (30 acres) of the Queenston Quarry lands now included in the Village limits, but it would significantly alter the shape. The proponent held the view that the provisions of the NEP governing Minor Urban Centres provided scope for this modification. The provision in question reads:

- An Amendment will not be required to reduce the area of a Minor Urban Centre and show the revised boundary on the Maps of the Niagara Escarpment Plan, if the boundary has been redefined to reduce the area of a Minor Urban Centre by a municipality, in an approved official plan and/or secondary plan.

The NEC staff indicated to the proponent in a meeting, with the constituent municipalities present, on July 31, 2008 that the modification proposed required an Amendment to the NEP. As such, the change could not be considered until the Plan Review in 2015. Note: The NEC is aware of this submission on the change to the Minor Urban Boundary but has not formally been asked, as a Commission, to take a position.

Briefly, the change to the NEPDA introduced through the *Greenbelt Act, 2005* prohibits the filing of any NEP amendment to redesignate land to Minor Urban Centre, Urban Area or Escarpment Recreation Area or make any other amendment to permit urban uses in the area of the NEP where the lands are designated Escarpment Natural Area, Escarpment Protection Area, Escarpment Rural Area or Mineral Resource Extraction Area, until the matter can be considered in the 2015 Plan Review.

On a related application, the NEC is advised that the Albright Centre continues to ask the Minister for an exception to the Urban Uses Policy. The Staff understands that the Minister has indicated that it is the NEC that is responsible for processing amendments, and the request is more properly directed to the NEC for further consideration. As the NEC may recall, on October 19, 2006 the NEC refused to initiate an Amendment to either enlarge the urban area of Beamsville or process an exception to the NEP for the expansion of a seniors' complex and the long-term care facility. The lands in question were already serviced but located just outside the existing urban boundary.

## **Policy Effectiveness:**

When the Urban Uses Policy was adopted on June 16, 2005, the NEC indicated that it would:

- Monitor the administration and operation of the Policy on an ongoing basis and consider revisions should the “Urban Uses” definition not prove effective.

The staff assessment of the Policy is that it has been extremely effective in limiting Amendments for Urban Uses. This includes those which have been formally submitted and others where the staff have indicated to prospective applicants that the proposal in question is an Urban Use and therefore cannot be processed. To date, the submissions that have been deferred or denied as Urban Uses (under the approved Policy) include:

- Amendment 162 (Stewart) - construction of a subdivision road.
- Amendment 163 (Clement) - three bedroom bed and breakfast in an accessory building.
- Amendment 164 (Albright Centre) - expansion of the seniors' complex and the long-term care facility.
- Amendment 171 (Queenston Quarry/QQRC) - serviced hotel/resort/spa/recreational complex component.
- Colpoy's Cove Lands (Litz) – new subdivision road, marina, lagoon, 22 waterfront lots and park donation.
- Silver Birch Camp Ground – redevelopment of trailer park into a 16 lot rural plan of subdivision.
- Burlington City Park – municipal servicing and related major recreational/commercial facilities (deleted from master plan).
- Fisher Farms – provision for the recognition and expansion of a highway commercial nursery outlet, landscaping business and related greenhouse operation.
- Canadian Reform Church Of Burlington – establishment of a school facility and gymnasium.

On April 25, 2008, the NEC was also successful in quashing an Ontario Municipal Board decision at the Ontario Court of Appeal respecting the holding of a hearing on the Highview Estates Subdivision expansion in Burlington using the prohibition on Urban Uses in the NEPDA as part of its argument before the courts.

The NEC staff, in administering the NEP, as part of regular business has dealt with a number of applicants where the proposal (in staffs' view) involves a Urban Use. Not all meetings and conversations are documented, but staff does recall at least two golf courses and one winery interested in providing resort/hotel accommodation. Additionally, there have been a number of inquires about the

conversion of large rural residences to country inns/spas and the establishment of restaurants and commercial banquet facilities.

The Policy itself has generally acted as a deterrent to the filing of requests, applications and amendments involving urban designations and uses. The Policy is posted on the Commission's web site.

### **The NEPDA (The Act):**

Section 6.1(2.2) states that no person or public body shall make an application or request for an urban designation or urban use until 2015, as discussed earlier in this Report.

A public body in the Act means, *"a municipality, local board, ministry, department, board, commission, agency or official of a provincial or federal government or a First Nation"*.

The definition of public body does not apparently bar the Minister or the NEC from processing an amendment which involves an urban designation or urban use, provided the application is made by the Minister or the NEC. The term "commission" in the definition of *public body* apparently does not capture "the Commission", which is separately defined in the Act and is always capitalized.

It is assumed that this power to override Section 6.1(2.2) would only be used in the most unique or rare of circumstances where it was either essential or in the public interest that the NEP be modified. It would be inappropriate that the Minister or the NEC be the sponsor of private amendments that are proponent driven, involving urban uses. The Minister or the NEC would not want to provide the planning rationale to justify and facilitate a private amendment; this is not the role of the Minister or the NEC.

As an added note, the NEC would be acting outside its jurisdiction to modify a private amendment (that was accepted and initiated without an urban use as part of the original application) at the point, following public and agency circulation, that the Commission takes a position for the purposes of sending the application to the Minister or the Hearing Officer. The Hearing Officer is also bound by the nature of the original application and could not deal with an introduced urban use at the hearing stage, if the proponent wished to have it included. Likewise, the Minister or the Cabinet would face the same jurisdictional problem in changing an amendment at the time of decision to include an urban use which was not processed in the original amendment. The problem is that this action would seek to achieve indirectly what the statute prohibits directly. Only the NEC or the Minister can process an amendment with an urban use.

## **Discussion:**

Although the Queenston Quarry Amendment may have been the impetus for the Policy being brought back for discussion, that Amendment should not be the main focus of revisiting the matter. The issue, as staff sees it, is whether or not the NEC wishes to open up “rural” areas of the NEP to resorts, hotels, inns, spas, restaurants, banquet halls, conference centres and similar destination recreational/accommodation/tourism facilities. The position being put forward is that this type of development should be considered a “rural” use rather than an urban use, since it is based on the need for an attractive or unique rural location. For argument’s sake, one could also take the position that residences and time share accommodation could all fall under the “rural” blanket of a resort type of use.

Associated with this issue is the extension of hard urban services to lands outside of urban boundaries (e.g., water and sewer lines).

The Urban Uses Policy, if it is changed, would continue to apply to the entire NEP and not just one site based on its particular circumstances. This is consistent with the practice of fairness and transparency for all landowners who should be treated equally. In staff’s experience, all landowners make the case that their proposal is special and different than any others, and needs extraordinary consideration.

It will therefore be difficult to accommodate a change in the Policy to reflect a development like the one proposed in conjunction with Amendment No. 171 without setting the stage for many more amendments related to resorts and similar fully serviced uses that wish to locate in a “rural” area. In fairness, all of the deferred Amendments and rejections would have to be invited to apply again and be reconsidered against a new Policy regime. If found similar, or less intrusive in terms of scale and operation, these too should be allowed to be considered through the NEP Amendment process (i.e., as possible exceptions to the applicable Designation).

The rehabilitation of a site from a Mineral Resource Extraction Area or former industrial use is also not a justification to allow an urban use. If urban uses were intended to be considered on Mineral Resource Extraction Areas, the explicit prohibition in the Act on redesignation of such Areas to Urban Area, Minor Urban Centre or Escarpment Recreation Area would not have been placed in the Legislation. The expectation under the NEP is that Mineral Resource Extraction Areas are to be rehabilitated and eventually all are to be redesignated in accordance with the Designation Criteria in the NEP. It is this new NEP designation that will be the one that allows or doesn’t allow a use like a destination resort. For example, if the NEC were to change the Policy to allow for the original Queenston Quarry proposal to proceed, it would be on the basis that the Escarpment Rural Area within the NEP could accommodate such uses

(in principle). This would mean that all Escarpment Rural Areas would be eligible for similar uses (subject to the tests of an NEP Amendment) since the Policy would no longer consider a hotel, for example, as an Urban Use.

The Urban Uses Policy, as structured, is intended to prevent NEP Amendments from being submitted as exceptions to the permitted uses in the Plan, where such Amendments should more correctly be processed as Urban Area, Minor Urban Centre or Escarpment Recreation Area designation requests. In the Queenston Quarry case at hand, the proper Amendment would be to propose an Escarpment Recreation Area.

The Escarpment Recreation Area Criterion for Designation states:

- Established, identified or approved recreational areas (e.g., ski centres, lakeshore cottage areas, resort development and the four seasons Craighleith-Camperdown Recreation Area in the Town of the Blue Mountains). [Staff underline]

The Urban Uses Policy captures the uses within this Designation in the following sub-sections:

- (d) large-scale or intensive recreational and tourist destination land uses such as...resort or lodge development...hotels...golf courses...including retail operations and serve establishments associated with such uses.
- (e) systems and infrastructure such as sewers, mains, water pipes and other services associated with public utilities...
- (h) land uses that would normally be found within the land uses designations of Minor Urban Centre, Urban Area or Escarpment Recreation Area in the NEP.

An exception by the NEC for one amendment would set a precedent for all previous applications set aside until 2015 and any future applications, where there are similarities in use and designation.

The **advice of the Staff**, based on the discussion in this Report, is that the Urban Uses Policy **should not be reopened and changed**. The Policy has been very effective in doing what it was intended to do, preventing Amendments for Urban Uses until the matter can be comprehensively considered in 2015.

Should the NEC not agree with the advice, the following options are available for consideration, understanding that the full NEPDA amendment process still applies, if the Policy is modified:

1. Modify the Urban Uses Policy on an application by application basis based on what the NEC sees as the planning merits of the proposal and the characteristics and history of the property in question (e.g., in the

- public interest, future quarry rehabilitation, lands already serviced, existing use in place).
2. Modify the Urban Uses Policy to exclude a class of urban development (e.g., serviced resorts associated with a permitted recreational or agricultural use or uses [like a golf course or winery]) or a class of development within a certain Plan Designation (e.g., Escarpment Rural Area, Escarpment Protection Area). Note: This could be extended to cover expansions to urban uses where an existing urban use (legal non-conforming or existing use as defined by the NEP) is already in place. A number of applications filed with the NEC, like the Albright Centre, reflect this situation.
  3. Modify the Urban Uses Policy to exclude a class of urban development (e.g., serviced resorts associated with a recreational or agricultural use or uses) within a Mineral Resource Extraction Area where the Designation is proposed to be changed (e.g., to Escarpment Rural Area, Escarpment Protection Area, etc.).
  4. Modify the Urban Uses Policy to exclude a class of urban development that is dependent on the rural environment and is closely related to the resource base and countryside of the area, including tourism and recreational opportunities (e.g., hotels, destination resorts, conference centres, banquet facilities, visitor and visitor centres).

In all of the above, a decision to include or exclude municipal services would have to form part of the options. This represents an inherent difficulty because these types of services would be very difficult to exclude as urban uses from the Urban Use Policy.

Option 1 would be viewed as the least transparent by the public.

An option which does not involve the changing of the Urban Uses Policy would be for the NEC to:

- initiate and process the Commission's own NEP "generic" Amendment to provide the opportunity for a particular Urban Use to be considered. For example in the case of the Queenston Quarry this could mean an Amendment seeing a part of the property proposed as Escarpment Recreation Area. In the Albright Centre situation it could be a redesignation of a part of the lands to Urban Area. The appropriate designation would be dependent on the nature of the proposal in a particular planning situation.

To do this the NEC would have to be convinced that the Amendment was essential, one of a kind, in the public interest and/or necessary for the proper operation of the NEP, otherwise the use of the NEC power to override Section 6.1(2.2) could be seen as arbitrary or inconsistent and inviting of any number of other applications expecting similar treatment by the Commission on its Urban

Use. The NEC will have to, by resolution, carefully provide reasons/justification for initiating such an Amendment since normally this type of Amendment is, and will be seen to be, of benefit to only the proponent. A further difficulty may be the matter of providing planning justification, especially when the Amendment goes to a hearing. The Staff of the NEC will, with NEC direction to do so, undertake the required Amendment drafting and processing, but there will be difficulty in defending such an Amendment at a hearing, should staff be examined as to their professional planning opinion. The landowner, assuming participation at a hearing, should be expected to support the Amendment in the absence of NEC Staff endorsement.

No matter what option the NEC selects, the four Policy change options are seen as the most problematic since it opens the Policy up to any number of proposals or requests to accommodate a diverse range of what are now considered Urban Uses. It will be difficult to tailor the test for one type of use but exclude another. The criticisms will be that the NEC will be favouring one kind of use (and applicant) over another, all of which appear to be urban. The pressure will be to ever expand the Urban Use exceptions. If the NEC is not seen as being consistent, the likely result is litigation. At least the option of the NEC deciding to process Amendments involving Urban Uses is legally provided for in the NEPDA.

### **Conclusion:**

The Policy on Urban Uses adopted on June 16, 2005 should not be modified, having proven itself as very effective in limiting Niagara Escarpment Plan Amendments involving the introduction of Urban Uses as set out in the NEPDA. There are no compelling reasons identified at this time related to the operation of the Niagara Escarpment Plan that would require changes to the Urban Use Policy. It is not essential nor in the public interest to alter the Policy, before the Plan Review in 2015.

The NEC always has the legal means to process its own Amendment to consider an urban use (or designation) should it decide to do so, subject to the cautions outlined around using this authority under the Act.

**Recommendation:**

That the Niagara Escarpment Commission **not modify** the Policy currently governing proposed Amendments filed for Urban Uses, adopted on June 16, 2005.

*Note: Following discussion, the Commission's Rules of Procedure require a two-thirds majority to reopen an approved Policy for the purpose of considering a change to the Policy. Once reopened a simple majority is required to change the Policy.*

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Ken Whitbread  
Manager

**Niagara Escarpment Commission**

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Niagara Escarpment Commission  
An agency of the Government of Ontario

May 21, 2020

## INITIAL STAFF REPORT

**RE: PROPOSED Niagara Escarpment Plan Amendment PW 218 20  
Columbia International College  
Part of Lots 28 & 29, Concession 2, Geographic Twp. of West  
Flamborough  
574 Northcliffe Avenue, City of Hamilton**

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**APPLICANT/OWNER:** Columbia Northcliffe Campus Inc.

**AGENT:** IBI Group

**RECEIVED:** Niagara Escarpment Plan Amendment application received February 28, 2020

**NEP Designations:** Escarpment Natural Area, Escarpment Rural Area

### PROPOSAL SUMMARY:

An application to amend the Niagara Escarpment Plan (NEP) has been submitted which proposes to revise a special policy that applies to the subject property, being part of Lots 28 and 29, Geographic Township of West Flamborough, City of Hamilton, also described as 574 Northcliffe Avenue. The site-specific policy would allow the use of the former convent of the Sisters of St. Joseph as a private secondary school with a maximum of 1,000 students and 80 staff with an accessory gymnasium addition attached to the existing building known as the Motherhouse.

### PURPOSE OF THIS REPORT

The purpose of this report is to provide advice to the Niagara Escarpment Commission (NEC) to determine whether the application for amendment to the Niagara Escarpment Plan 2017 (NEP) has met the requirements for a Plan Amendment application as set out in Part 1.2.1 of the NEP, whether the application should be initiated and circulated under Section 7 and Section 10 of the *Niagara Escarpment Planning and Development Act* (NEPDA), or, whether the NEC should recommend to the Minister that the application should be considered frivolous, vexatious, or not in the public interest, etc., under Section 6.1(3) of the NEPDA.

## STAFF SUMMARY RECOMMENDATION:

Instruct staff to process the proposed Amendment PW 218 20 for circulation and notification pursuant to Section 7 and Section 10 of the NEPDA.

### A. BACKGROUND/OVERVIEW

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The subject lands are owned by Columbia Northcliffe Campus Inc. (Columbia International College - CIC). CIC is a private school for international students. It has educational and housing facilities for students in other locations in the City of Hamilton.

CIC purchased the former convent of the Sisters of St. Joseph and is currently using the building as a temporary dormitory for students of CIC while other student housing is being constructed. The City of Hamilton approved a temporary use by-law in July 2019 to allow the Motherhouse to be used for student housing for a period up to 3 years. The NEC supported this, as outlined in a staff report dated March 21, 2019. The boarding school use of the convent is proposed to cease either at the end of the 3 years or if approvals are given for the conversion to a school.

Through this amendment application, CIC seeks to amend the NEP to allow the use of the subject lands as “a private secondary school with a maximum of 1,000 students with an accessory gymnasium addition that will be attached to the Motherhouse building”.<sup>1</sup>

The purpose of CIC’s proposed Plan Amendment is to revise an existing site specific policy in the NEP for 574 Northcliffe Avenue to allow the proposed use of the property as a private school for Grade 12 students, notwithstanding a policy in the NEP (Part 2.21 f) that limits the use of the subject lands to the following within the existing building:

- i. a Place of Worship;
- ii. a Convent;
- iii. a residential care facility for a maximum of 35 residents; and
- iv. a dormitory for 36 students and *accessory uses* for an educational establishment provided it is located in conjunction with the convent of the Sisters of St. Joseph.

### B. PLANNING DOCUMENTS

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#### 1. ***Niagara Escarpment Planning and Development Act (NEPDA)***

Sections 6.1(2.2) of the NEPDA requires that no person or public body shall make an application or request to amend the NEP if the application or request relates to land that is within the land use designation of Escarpment Natural Area, Escarpment Protection Area, Mineral Resource Extraction Area or Escarpment Rural Area of the NEP and the application or request seeks to:

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<sup>1</sup> Proposed Niagara Escarpment Plan Amendment, IBI Group, October 15, 2019.

- a) re-designate the land to the land use designation of Minor Urban Centre, Urban Area or Escarpment Recreation Area of the NEP; or,
- b) make any other amendment to permit urban uses, unless it is during the time of a Plan Review.

The proposed amendment is for a site-specific policy change, not a change in land use designation in the NEP. The amendment proposal does not trigger consideration of the prohibition regarding “urban uses” and “urban designations” under the NEPDA. The convent is an existing use that was constructed in 1951. Therefore, the amendment is consistent with the NEPDA respecting urban uses and urban designations and the NEC can consider the application under Section 6.1 of the NEPDA.

Sections 6.1(2.1) and 10(6) of the NEPDA require that amendments to the NEP be justified. As identified in Part 1.2.1 of the NEP, the justification for a proposed amendment to the NEP “means the rationale for the amendment, as well as reasons, arguments or evidence in support of the change to the Plan proposed through the amendment”.<sup>2</sup> As described later in this report, the applicant has submitted numerous studies to support the application.

## **2. Niagara Escarpment Plan 2017**

The NEP Part 1.2.1 identifies that planning policies and land use designations may be changed by amendment to the Plan, as long as the proposed amendment is consistent with the Purpose and Objectives of the NEPDA and the NEP.

### Purpose

The Purpose of the NEPDA and the NEP is to provide for the maintenance of the *Niagara Escarpment*<sup>3</sup> and land in its vicinity substantially as a continuous *natural environment*, and to only allow such development as is *compatible* with that *natural environment*. During the evaluation of the proposed Plan Amendment, NEC staff will consider whether the proposed change of use of the subject lands and the former convent and the proposed building addition would be consistent with the Purpose of the NEP based on the evaluation of the policies of the Plan and the comments received

### Land use designations

The subject lands are designated Escarpment Natural Area for the valley lands along the western border of the site and the balance of the property is within the Escarpment Rural Area designation.

Escarpment Natural Areas are considered the most sensitive natural and *scenic resources* of the *Escarpment*. The NEP policies for this designation aim to protect and enhance these natural areas. Among the objectives for Escarpment Natural Areas is to

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<sup>2</sup> NEP 2017, Part 1.2.1, p. 17

<sup>3</sup> Terms in italics are defined terms in the NEP.

*conserve cultural heritage resources*, including features and areas of interest to First Nations and Métis communities and to encourage *compatible* recreation, *conservation* and educational activities. Although no development is proposed for the Escarpment Natural Area portion of the site, NEC staff will review the relevant technical studies, including the Environmental Impact Assessment, and comments of circulated agencies and First Nations to determine how the objectives for the Escarpment Natural Area have been achieved by the proposed Amendment.

Escarpment Rural Areas provide a buffer to the more ecologically sensitive areas of the *Escarpment*. The objectives for this designation include providing for *compatible* rural land uses and conserving *cultural heritage resources*. NEC staff will evaluate whether the proposed amendment achieves these objectives through the conservation of the existing convent considering the Planning Justification Report, the Cultural Heritage Impact Assessment and Visual Impact Assessment, among other technical studies submitted.

### Special Provisions

The subject property is located within an area known as the Pleasant View Survey within the City of Hamilton. As noted on page 2 of this report, this area is subject to Special Provisions set out in Part 2.21 of the NEP. Unique Development Criteria apply to 154 Northcliffe Avenue (Sisters of the Precious Blood convent and place of worship) and to 574 Northcliffe Avenue (Sister of St. Joseph) which limit the use of the lands. The proposed Amendment seeks to revise the existing policy to allow the private school in the former convent building and gymnasium addition. Although 154 and 574 Northcliffe Avenue are part of the same lot, the proposed Amendment only seeks to change the policy for 574 Northcliffe. The other building is under a long-term lease to the Sisters of the Precious Blood and no changes to its use are proposed at this time.

### Development Criteria

All applicable Development Criteria set out in Part 2 of the NEP are to be considered in the assessment of any Amendment to the NEP. The following Development Criteria are applicable to the consideration of CIC's proposed Plan amendment which is seeking a site-specific amendment to the NEP policies relating to the Pleasantview Survey generally and 574 Northcliffe Avenue in particular:

The Objective of **Part 2.2 General Development Criteria** of the NEP is to permit the reasonable enjoyment by the owners of all lots that can sustain development. Part 2.2.2 states that "development is only permitted on an *existing lot of record*". The proposed private school use would be on an existing lot of record.

The Objective of **Part 2.3 Existing Uses** of the NEP is generally not to disturb *existing uses* and to provide for changes to such uses in conformity with the Purpose and Objectives of this Plan, the objectives of the applicable land use designation and the relevant Development Criteria, including compatibility with the *Escarpment environment*

and the surrounding land uses. Further, an *existing use* may change to a similar or more compatible use if it can demonstrate that the objectives of the designation are met. An *existing use* or building may also expand on the property where it is located if it can be demonstrated that the objectives of the designation are met. The proposed Amendment seeks to allow the adaptive re-use of an existing building with an addition for a gymnasium. NEC staff has already reviewed the Visual Impact Assessment (VIA) that was submitted and determined that the proposed building addition would not have a negative impact *Escarpment environment*. The amendment proposes a change from one institutional use (religious) to another (educational). Staff will assess whether the proposed use is a *compatible* rural use, which is one of the Objectives of the Escarpment Rural designation, based on consideration of comments received from the circulated agencies and from the public who live in the area, as concerns have been raised about the traffic impact of the proposed school use.

The Objective of **Part 2.5 Development Affecting Steep Slopes and Ravines** of the NEP is “to ensure that development affecting steep slopes ... and ravines is *compatible with the Escarpment environment* and does not result in unsafe conditions”. No development is proposed in proximity to the ravines on the subject lands. NEC staff will review the applicant’s Environmental Impact Statement and determine if this Development Criterion is met.

The Objective of the NEP **Part 2.6 Development Affecting Water Resources** policies is to ensure that hydrologic features and functions including the quality, quantity and character of groundwater and surface water, at the local and watershed level, are protected and where possible enhanced.

The subject lands are partially serviced with municipal water, but with a septic system. The applicant’s studies indicate that an expansion of the septic system will be required to accommodate the private school use. The applicant’s Hydrogeological Investigation concluded that there would be no downstream impacts from the septic system but noted that the site drains toward the Long Pond on the property of the Royal Botanical Gardens (RBG). NEC staff will review the study and circulate the application to the RBG and other agencies to assess the study’s findings and confirm whether this Development Criterion is met. An updated Environmental Compliance Approval will be required from the Ministry of the Environment, Conservation and Parks (MECP) for the septic system if the Amendment is approved and MECP will be consulted as part of the application process.

The Objective of the NEP **Part 2.7 Development Affecting Natural Heritage** is to protect and where possible enhance natural heritage features and functions, in order to maintain the diversity and connectivity of the continuous *natural environment*.

Key Natural Heritage Features identified on the subject property include wetlands (unevaluated), *significant woodlands and significant valleylands*. NEC staff will evaluate the Environmental Impact Study prepared for the applicant and consult with relevant agencies to determine how this policy may have been addressed. The MECP will be

consulted with respect to Species at Risk as chimney swift and barn swallow were observed on the property.

The objective of the **Cultural Heritage** policies is to conserve the *Escarpment's cultural heritage resources*, including *significant built heritage resources, cultural heritage landscapes, and archaeological resources*. The applicant has submitted a Cultural Heritage Impact Assessment for the subject lands. The convent is a Registered Non-Designated historic building on the City's Inventory of Buildings of Architectural and/or Historic Interest. The City of Hamilton will be invited to comment on the proposed amendment including any impact on the historic structure arising from the proposed building addition. An archaeological assessment has not been completed on the property. The applicant has been advised to consult with the Ministry of Heritage, Sport, Tourism, and Culture Industries to determine if one is required for the subject lands. The proposed amendment will also be circulated to the Ministry for their review as part of the application process.

### Niagara Escarpment Parks and Open Space System (NEPOSS)

The subject lands are in the vicinity of several NEPOSS parks including Pleasantview Conservation Sanctuary and Cootes Paradise Sanctuary. As noted earlier in this report, the application will be circulated to the Conservation Halton and the Royal Botanical Gardens for their input in terms of any potential impact of the proposed land use on a NEPOSS park.

### **3. Provincial Policy Statement (2020)**

The PPS (2020) is intended to provide direction on matters of provincial interest related to land use and planning. In their decisions on land use planning, all agencies, including the NEC, must be consistent with the policies of the PPS; however, the PPS states that Provincial Plans take precedence over policies in the PPS to the extent of conflict. The NEP builds upon the policy foundation provided by the PPS and provides additional land use planning policies in support of the Purpose and Objectives of the NEP.

Part III, How to Read the Provincial Policy Statement states that:

Provincial Plans are to be read in conjunction with the Provincial Policy Statement. They take precedence over the policies in the Provincial Policy Statement to the extent of any conflict, except where the relevant legislation provides otherwise.

Policy 1.1.4 of the PPS regarding Rural Areas states that healthy, integrated and viable *rural areas* should be supported by building upon rural character and leveraging rural amenities and assets. The proposed Amendment would provide the opportunity to convert the former convent on the subject lands to a private school use thereby making continued use of a valuable rural asset.

Policy 1.1.5.4 requires that development on rural lands is to be appropriate to the *infrastructure* which is planned or available. The subject property is on municipal water but an expansion to the existing system is necessary for the proposed use. Servicing will be a consideration during the assessment of the proposed Amendment.

Policy 1.6.6.5 indicates that land uses shall only be permitted on partial services to address a failure of *individual on-site sewage services*. The subject property is already partially serviced. The existing septic system has not failed but would need to be expanded to accommodate the private school use according to the servicing study submitted by the applicant. Full municipal services cannot be provided to the property in accordance with NEP policy as the subject lands are not in an Urban Area or Minor Urban Centre.

Policy 1.6.7.2 requires that efficient use be made of existing and planned transportation infrastructure. The applicants have submitted a Traffic Impact Study (TIS) and a Transportation Demand Management Options Memo in consideration of the proposed change in use from a convent to a school. These reports conclude that with some minor improvements at the intersection of Newman Road and York Road to improve visibility, that the proposed use of the land can be accommodated from a traffic perspective. Other area road improvements are also recommended. These are not solely attributed to the proposed school use but rather to increases in background traffic presently and over time. These studies will be provided to the City of Hamilton who will comment on the TIS.

Policy 1.8 encourages planning authorities to consider the impacts of a changing climate and energy conservation and efficiency when addressing land use matters. NEC staff will be looking for information from the applicant as to how the proposed re-use of the convent may be made more energy efficient.

Policy 2.0 of the PPS identifies the Province's objectives respecting the long-term protection of natural heritage and water resources for their economic, environmental and social benefits. Policy 2.1 requires that natural features and areas shall be protected for the long-term and Policy 2.1.2 identifies that the diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features. Policy 2.1.8 states that development and site alteration shall not be permitted on adjacent lands to natural heritage features unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. The applicant has undertaken an Environmental Impact Study (EIS) that will be reviewed by NEC staff and the circulated agencies. Development proposed consists of a gymnasium addition and expansion of the septic system on areas of the site that have been previously disturbed or that are outside of the natural heritage areas of the property. NEC staff will evaluate the EIS and will circulate it to various agencies for their review to determine if this policy has been met.

Policy 2.6 of the PPS relates to Cultural Heritage and archaeology. *Significant built heritage and significant cultural heritage landscapes are required to be conserved.* As discussed earlier in this Report, staff will review the Cultural Heritage Impact Assessment and consult with the appropriate Ministry to assess the impact of the proposed building addition to the convent and determine if an archaeological assessment is required as the City of Hamilton Archaeological Management Plan identifies the subject lands as having potential for archaeological resources.

NEC staff will consider the technical information provided by the applicant to evaluate whether the proposed amendment is consistent with the PPS with respect to all the above-noted policies.

#### **4. Greenbelt Plan (2017)**

The *Greenbelt Act, 2005* authorized the preparation of the Greenbelt Plan, which was approved in February 2005 and updated in 2017 through the 2015 Co-ordinated Land Use Plan Review. The Greenbelt Plan Area includes the NEP Area. The policies of the NEP are the policies of the Greenbelt Plan for the NEP Area except for Section 1.1 (Context); Section 1.2.1 (Vision); and the Open Space and Trails Policies set out in Section 3.3 of the Greenbelt Plan. The planning, construction, and maintenance of parkland, open space, and trails in the NEP Area must also comply with the policies in Section 3.3 of the Greenbelt Plan.

The requirements of the Parkway Belt West Plan, deemed to be a development plan under the *Ontario Planning and Development Act, 1994*, continue to apply to lands within the Parkway Belt West Plan Area and the Protected Countryside policies do not apply, except for sections 3.2 and 3.3.

NEC staff will evaluate the applicant's studies and determine whether the proposed Amendment is in conformity with the policies of the Greenbelt Plan, as applicable.

#### **5. A Place to Grow, Growth Plan for the Greater Golden Horseshoe 2019**

The Growth Plan applies to lands within the Greater Golden Horseshoe (GGH), which includes the City of Hamilton, and provides direction on how to manage growth (Section 6).

The Growth Plan and Greenbelt Plan are intended to work together. Areas to be protected in the GGH were established first (in the Greenbelt Plan) and then areas where development could be considered were identified second (the Growth Plan). Both the Growth Plan (Section 1.4) and its enabling legislation (*Places to Grow Act, 2005*), indicate that in considering the Growth Plan in relation to other Provincial Plans and Policies (e.g., the NEP), the planning direction to be followed is the one that "provides more protection to the natural environment or human health". In considering the hierarchy of Provincial Plans and Policies governing this area and the provisions within those documents, the greatest protection to the natural environment and human

health (particularly the natural environment), is accomplished most effectively through the policies and appropriate land use designations of the NEP.

A Place to Grow also supports the conservation of *cultural heritage resources* including built heritage resources, such as the former convent on the subject lands, to foster a sense of place and benefit communities.

NEC staff will evaluate the applicant's studies and determine whether the proposed Amendment is in conformity with the policies of A Place to Grow.

## **6. Parkway Belt West Plan (1978)**

The subject lands are included in the area of the Parkway Belt West Plan (PBWP) and are designated Special Complimentary Use Area. Existing uses and additions to them are permitted subject to limiting the impact of such uses on natural features, the open-space character, lot coverage and height of buildings. New uses must be compatible or more compatible than the existing uses.

NEC staff will consult with the staff of the Ministry of Municipal Affairs and Housing that administer the PBWP for their opinion as to whether the proposed use of the former convent is consistent with this provincial plan.

## **7. Municipal Official Plan and Zoning – City of Hamilton Official Plan**

The NEP Development Criteria are applied to assess the conformity of local official plans, secondary plans and, where applicable, zoning by-laws and for evaluating site plan applications. If an official plan, secondary plan, zoning by-law or other planning approval is silent on one or more development criteria included in the NEP, the development criteria of the NEP still apply. Part 1.1.1 of the NEP states that municipal official plans and by-laws can be more restrictive or stringent than the policies of the NEP provided that does not result in a conflict with the NEP.

A temporary use by-law is currently in place on the subject lands to permit the use of the former convent as a dormitory for 138 students of CIC pending the construction of student housing elsewhere in the City. The applicant requires an Official Plan and zoning by-law amendment. The applicant's planning consultant has advised that those applications will be submitted to the City once the Plan Amendment is in circulation.

City of Hamilton staff noted in their staff report on the Temporary Use By-law that the site is subject to the Hamilton-Wentworth Official Plan which designates the site as Parkway Belt West. The site is also subject to the former Town of Dundas Official Plan which applies a designation of Rural Area. The majority of the property is zoned Public and Private Service Zone (PPS/S-56), a site-specific zoning which allows existing uses (the convent) and uses permitted by the Committee of Adjustment as being similar to existing uses.

## **8. Conservation Authority Regulation**

### **Ontario Regulation 172/06 Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses**

Pursuant to Ontario Regulation 172/06, the Conservation Halton (CH) regulates development and site alterations in or adjacent to river or stream valleys, watercourses, hazardous lands and wetlands. Where lands are under regulation, Conservation Authorities ensure that development proposals take into consideration natural features like floodplains, steep slopes, wetlands, rivers and lakes, through general policies that speak to buffers adjacent to natural features/areas in order to maintain ecological and hydrological functions. A portion of the subject lands are regulated by the CH. Their staff has visited the subject lands. The proposals on the subject lands would require assessment by the CH and it will be consulted on the proposed Plan Amendment.

## **C. SITE DESCRIPTION AND SURROUNDING LAND USES**

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### **574 Northcliffe Avenue**

The subject property is part of the Pleasant View Survey in the City of Hamilton. The site is bordered by Highway 6 to the East and Highway 403 to the south but there is no direct access from the highway system. Access to the subject lands is from York Road, Newman Road and Northcliffe Avenue. Single dwellings are the predominant land use to the north.

The site features a driveway access to the monastery and the former convent, associated parking areas, the septic system and large areas of lawn and gardens. There are ravines lined with mature trees along the east and west limits of the property.

### **Landscape Evaluation Study (1976)**

The Landscape Evaluation Study (1976) was prepared as background for the NEP in determining its coverage and associated Land Use Designations. The Landscape Evaluation gave scenic rankings for the area and assigned a value of Average to this area.

The spire on the top of the convent can be viewed from a considerable distance from the site due to its height. Development of the subject lands is only proposed at ground level (septic system) and a one storey addition to the former convent which will not be visible from surrounding areas according to the VIA. It is not anticipated that the proposed development would change the scenic ranking of the site, but this will be further assessed in consideration of the proposed Amendment and any comments received regarding the application.

## **D. RELATED NIAGARA ESCARPMENT DEVELOPMENT PERMIT APPLICATION FILES**

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The subject lands are within the Niagara Escarpment Plan Area but not in the Area of Development Control. Municipal zoning applies in this area.

## **E. ANALYSIS**

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### **INITIATING THE AMENDMENT**

Section 6.1(3) of the *NEPDA* provides that: “*Where, in the opinion of the Commission, an application for an amendment does not disclose a planning justification for the amendment, is not in the public interest, is without merit, is frivolous or vexatious or is made only for the purposes of delay, the Commission shall inform the Minister of its opinion and, where the Minister concurs in that opinion, the Minister shall inform the applicant in writing of his or her opinion and notify the application that unless the applicant makes written representations thereon to the Ministry within such time as the Minister specifies in the notice, not being less than 15 days from the time the notice is given, the provisions of this Act in respect of the considerations of the amendment shall not apply, and approval of the amendment shall be deemed to be refused.*”

### **AMENDMENT CONSIDERATIONS**

Matters raised in this preliminary review of this application are noted in order to provide the commenting agencies and the public with an initial evaluation of the application. The issues identified are not a complete review of the final merits of the application either in terms of the NEP or any other relevant legislation or regulation.

In reviewing the amendment there are several key issues that must be addressed. All Plan amendments must be considered against the Purpose and Objectives of the *NEPDA*, and the Objectives and Policies of the NEP and be consistent with other Provincial policies.

### **JUSTIFICATION FOR THE AMENDMENT**

Section 6.1(2) of the *NEPDA* requires that applications for amendments to the NEP must include a statement of justification together with supporting material. Part 1.2.1 of the NEP (Plan Amendments) provides that the Plan may be amended if:

- the Purpose and Objectives of the *NEPDA* and the NEP are met;
- justification for the amendment is provided; and,
- it has been demonstrated that the proposed amendment and the expected impacts resulting from the proposed amendment do not adversely affect the Purpose and Objectives of the *NEPDA* and the NEP and are consistent with other relevant Provincial policies.

Justification means the rationale for the amendment as well as the reasons, arguments or evidence in support of the change to the NEP proposed through the amendment.

Prior to recommending that an application should be processed, the NEC must determine if the applicant has provided a statement of justification which addresses the above. However, even if the proposed Amendment is found to have set out a justification at this stage, NEC staff caution that this is not an endorsement of the eventual approval of the amendment application, in whole or in part.

Columbia Northcliffe Campus Inc., the applicant has provided the following reports in support of the amendment application:

- Planning Justification Report, February 2020
- Functional Servicing Report, October 2019
- Transportation Demand Management Memo, July 2019
- Transportation Impact Study, January 2020
- Visual Impact Assessment, June 2019
- Wastewater Review, June 2019
- Hydrogeological Investigation, September 2019
- Geotechnical Report, July 2019
- Environmental Impact Study, October 2019
- Tertiary Treatment System Design Report, September 2019
- Cultural Heritage Impact Assessment, July 2019.

The applicant submits that the proposed amendment is justified on the following basis:

The amendment proposal:

- is in accordance with the Purpose and Objectives of the NEPDA;
- satisfies and achieves the Purpose and Objectives of NEP;
- is consistent with the PPS (2014), the Greenbelt Plan, the Growth Plan, the Parkway Belt West Plan, the City's Official Plan and the former Town of Dundas Official Plan and zoning by-laws.

### **The NEPDA & the NEP**

#### **1. Does the proposed amendment satisfy the Purpose and Objectives of the Niagara Escarpment Plan and the *Niagara Escarpment Planning and Development Act*?**

The **Purpose** of the Act and the Plan is: *"to provide for the maintenance of the Niagara Escarpment and land in its vicinity as a continuous natural environment, and to ensure only such development occurs as is compatible with that natural environment"*.

The **Objectives** of the NEPDA and the NEP are:

1. *To protect unique ecologic and historic areas;*
2. *To maintain and enhance the quality and character of natural streams and water supplies;*
3. *To provide adequate opportunities for outdoor recreation;*
4. *To maintain and enhance the open landscape character of the Niagara Escarpment, in so far as possible, by such means as compatible farming or forestry and by preserving the natural scenery;*
5. *To ensure that all new development is compatible with the purpose of the Plan;*
6. *To provide for adequate public access to the Niagara Escarpment; and,*
7. *To support municipalities within the Niagara Escarpment Plan Area in their exercise of the planning functions conferred upon them by the Planning Act.*

**Comment:** The amendment proposed by CIC must be evaluated with respect to all relevant Objectives, particularly #1, 2, 4, 5 and 7. Through the review of the technical information provided by the applicant and consultation with other agencies through the circulation of the application and proposed amendment, NEC staff will evaluate whether the proposed amendment would achieve the Objectives of the NEP.

### **Land Use Designation and Designation Criteria**

#### ***2. Is the Amendment consistent with the objectives of the Designation and the Designation Criteria in the NEP?***

The applicant is not seeking a change in the designation of any lands and so the proposed amendment will be evaluated based on the Objectives for the applicable designations and Development Criteria and in consideration of the area-specific policies for the Pleasant View Survey.

#### **Escarpment Natural Area designation**

This designation includes *Escarpment features* that are in a relatively natural state and associated *valleylands*, *wetlands* and *woodlands* that are relatively undisturbed.

The Objectives of the Escarpment Natural Area include protecting and where possible enhancing the natural heritage and hydrological systems associated with the Niagara Escarpment Plan area, protecting the most natural *Escarpment* features, *valleylands*, *wetlands* and related significant natural areas and maintaining and enhancing the *scenic resources* and *open landscape character* of the *Escarpment*.

**Comment:** NEC staff will evaluate whether change in use and development of an addition to the existing building and upgrading the septic system demonstrate that the Objectives of the Escarpment Natural Area designation are addressed by the proposed amendment.

### **Escarpment Rural Area designation**

This designation includes lands that are an essential component of the *Escarpment* corridor and provide a buffer to the more ecologically sensitive areas of the *Escarpment*. These lands include minor *Escarpment slopes* and *Escarpment Related Landforms*, lands that are necessary to provide *open landscape character*, lands that are of ecological importance to the *Escarpment environment* and lands that have potential for enhanced ecological values through natural succession or due to their proximity to other ecologically sensitive lands, areas or features.

The Objectives of this designation include maintaining *scenic resources*, encouraging compatible rural land uses and agriculture, providing a buffer for ecologically sensitive areas of the *Escarpment* and encouraging *forest management* and recreation.

**Comment:** Through the review of the technical information provided in support of the Plan Amendment application and consideration of agency and public comments, NEC staff will determine if the proposed Amendment addresses the Objectives of this designation.

### **3. *Is the proposed amendment in the public interest?***

The amendment proposed by the CIC would facilitate the re-use of a former convent as a private school. The applicant states in its Planning Justification Report that the proposed use is consistent with the Purpose and Objectives of the NEPDA and the NEP, is consistent with the PPS and other provincial land use plans, has regard for the municipal official plan and zoning by-law, represents good planning and is in the public interest. Public interest is not defined in the NEP but is commonly understood to mean the welfare or well-being of the general public. A further consideration in the NEPDA is whether the application is “without merit, is frivolous or vexatious or is made only for the purposes of delay”.<sup>4</sup> These are legal terms but on their commonly understood meaning, NEC staff does not find that the application has been submitted for an improper purpose or to delay the planning process.

**Comment:** Through the processing of this application and consideration of comments received, NEC staff will consider whether the applicant has demonstrated that the proposed amendment is in the public interest and has merit, considering all relevant policies of the NEP.

### **4. *Is the Amendment consistent with the Provincial Policy Statement (PPS 2020), Greenbelt Plan, A Place to Grow, and municipal Official Plan?***

Discussion has been provided earlier in this Report with respect to the relevant policies in the PPS (2020), a Place to Grow, the Parkway Belt West Plan, the Greenbelt Plan and the municipal Official Plan. Circulation of the application to Indigenous communities, the affected ministries, the municipality and Conservation Halton would

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<sup>4</sup> NEPDA, S. 6.1(3)

allow for further evaluation and a staff recommendation as to whether the proposed amendment is consistent with provincial and municipal policy.

## **CONCLUSION**

In conclusion, staff finds that there is adequate information and justification provided to warrant the circulation of this site-specific application and to allow further consideration of the merits of the proposed Plan Amendment.

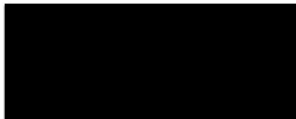
## **RECOMMENDATION**

That the Niagara Escarpment Commission should instruct staff to process the proposed Amendment PW 218 20, Columbia Northcliffe Campus Inc. (574 Northcliffe Avenue, City of Hamilton), for circulation and notification pursuant to Section 6.1(2) of the NEPDA, having found that the application is not frivolous, vexatious or for the purposes of delay and does not constitute an urban use.

## **Attachments**

- Map 1, Amendment Location Map/Existing NEP Designations
- Amendment document
- Circulation and Notification document

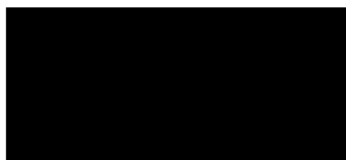
## **Prepared By:**



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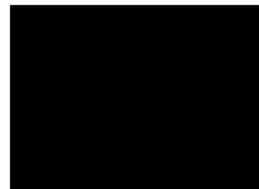
Nancy Mott, MCIP, RPP  
Senior Strategic Advisor

## **Approved by:**



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Kim Peters, MCIP, RPP  
Acting Manager



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Debbie Ramsay, MCIP, RPP  
Acting Director

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Niagara Escarpment Commission  
An agency of the Government of Ontario

May 21, 2020

**AMENDMENT DOCUMENT**

**RE: NIAGARA ESCARPMENT PLAN AMENDMENT PW 218 20**  
**Application by Columbia Northcliffe Campus Inc.**  
**574 Northcliffe Avenue, City of Hamilton**

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**Recommendation:**

That the Niagara Escarpment Commission circulate the attached amendment document (Amendment No. PW 218), as Columbia International College's proposed amendment for the subject property at 574 Northcliffe Avenue, City of Hamilton.

**NOTE:**

**The proposed amendment is derived from the Niagara Escarpment Plan Amendment application prepared by the IBI Group, dated October 15, 2019 for Columbia International College.**

**PROPOSED NIAGARA ESCARPMENT PLAN  
AMENDMENT PW 218 20**

**574 Northcliffe Avenue, City of Hamilton**

**October 15<sup>th</sup> 2019**

## **TABLE OF CONTENTS**

**PART A – The Preamble**

**PART B – The Amendment**

**PART C – Schedule “A”**

## PART A – The Preamble

### PURPOSE:

To amend the Niagara Escarpment Plan (NEP) to: replace Part 21 f) within Part 2.2 General Development Criteria for the Pleasant View Survey Lands of the NEP to allow for a portion of the property to be used for a day use private secondary school within the existing building (the former Motherhouse) and a gymnasium addition with a corridor connection to the former Motherhouse located on the south-east portion of the property.

### AREA:

The lands subject to the proposed Plan Amendment consist of an area of approximately 19.4 hectares (48 acres).

### LOCATION:

Part of Lot 28 & 29, Concession 2  
Geographic Township of West Flamborough, City of Hamilton  
(Formerly the Town of Dundas)

### OWNERSHIP:

Columbia Northcliffe Campus Inc.

### BASIS:

Under Section 6.1(2) of the Niagara Escarpment Planning and Development Act (NEPDA), an application may be made to the NEC for an amendment to the NEP, with appropriate justification provided.

The Amendment proposes to: delete and replace Part 21 f) within Part 2.2 General Development Criteria of the NEP to allow for a portion of the property for a private secondary school within the existing building (the former Motherhouse) and a gymnasium addition with a corridor connection to the former Motherhouse, as well as existing accessory uses (Administration) located on the south-east portion of the property. The existing use of convent and accessory uses is to remain for the portion of the property that is utilized by the Sisters of the Precious Blood Convent.

The subject lands constitute the Escarpment and lands in its vicinity which fulfil the purpose and objectives of the NEPDA.

Any designation change and/or policies related to that change that are introduced into the NEP must be consistent with the Purpose and Objectives of the NEPDA and the policy aims of the NEP respecting the maintenance and protection of the Niagara Escarpment and lands in its vicinity. These matters have been addressed in this Amendment.

The Amendment proposes text modification to the NEP.

## PART B – The Amendment

1. The General Development Criteria in Part 2.2 of the Niagara Escarpment Plan is amended by deleting Section 21 f) and replacing with the following:

### Special Provisions for the Pleasant View Survey Lands

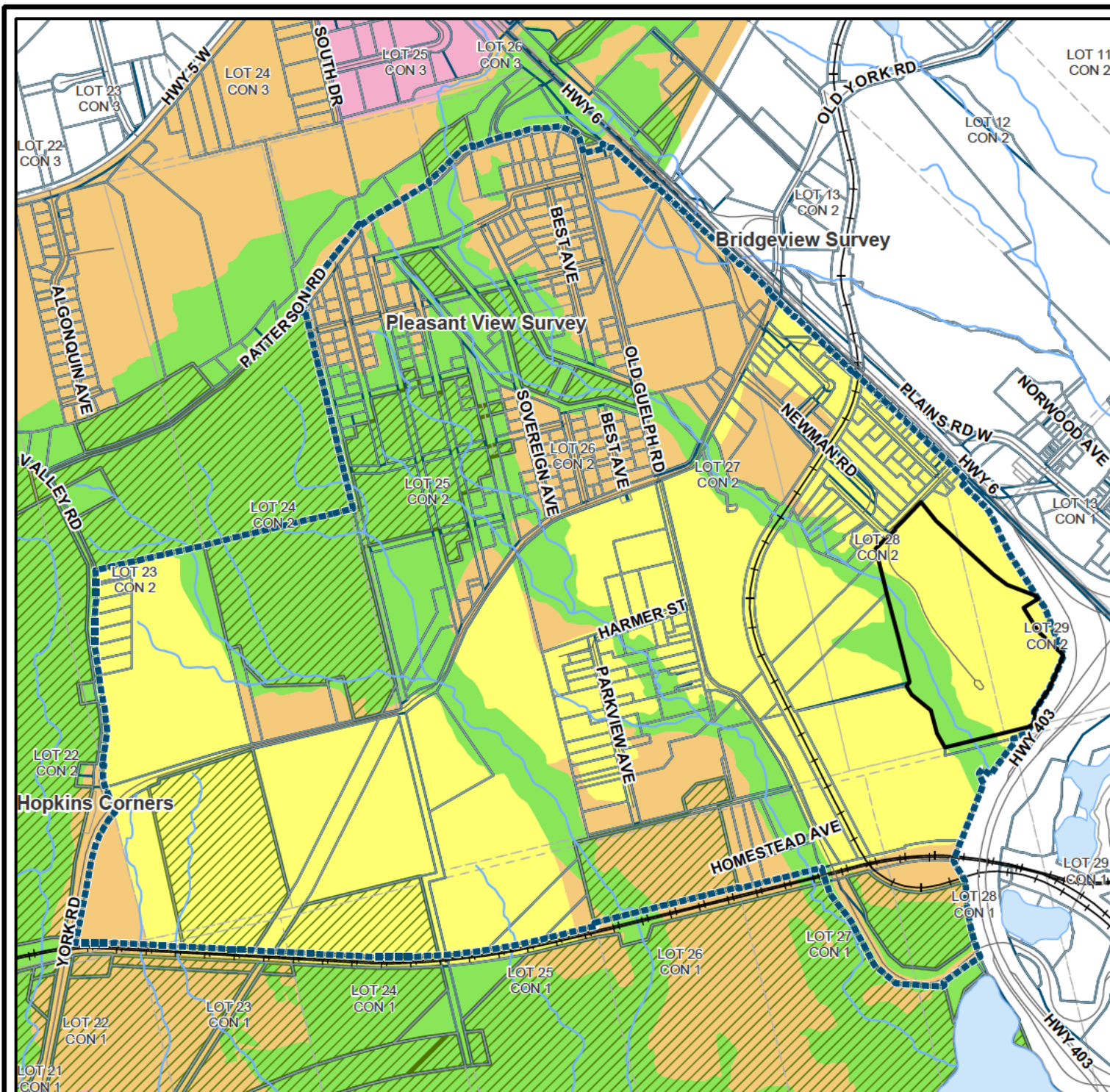
The existing institutional building on lands located at No. 574 Northcliffe Avenue (Sisters of St. Joseph) shall be used for the following institutionally related uses:

- i) A private secondary school with a maximum of 1,000 students and 80 support staff (including but not limited to teachers, admin, security, etc.) with an accessory gymnasium addition that will be attached to the former Motherhouse building on municipal water service and with upgraded septic system.

## PART C – “Schedule A”

The Niagara Escarpment Plan is amended as follows:

Map 2 of the Niagara Escarpment Plan is amended as shown on Schedule A.



# Niagara Escarpment Plan Amendment

PW 218 20  
Columbia International College

- Area Subject to the Amendment
- Plan Designations**
  - Escarpment Natural Area
  - Escarpment Protection Area
  - Escarpment Rural Area
  - Urban Area
  - Niagara Escarpment Parks and Open Space System
  - Special Policy Areas
- Roads
- Railway - Operational
- Waterbodies
- Watercourse
- Upper Tier Municipality
- Lower/Single Tier Municipality
- Lot and Concession Boundary
- Parcel Boundary
- Ownership Boundary

NOTE: The Niagara Escarpment Plan Designation boundaries shown on this map are approximate and subject to confirmation through Site Inspection and the application of the "Interpretation of Boundaries" section of the Niagara Escarpment Plan

0 150 300 450 600

Metres

Printed on Apr 17, 2020

THIS IS NOT A PLAN OF SURVEY.  
This map is illustrative only. Do not rely on it as being a precise indicator of routes, location of features, nor as a guide to navigation. Base derived from various sources.  
Map compiled and produced by the Geographic Information Systems  
(GIS) Department of the Niagara Escarpment Commission,  
Ministry of Natural Resources

Ontario



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May 21, 2020

## **CIRCULATION AND NOTICE**

**RE: PROPOSED NIAGARA ESCARPMENT PLAN AMENDMENT PW 218 20**  
**Applicant: Columbia Northcliffe Campus Inc.**  
**Proposed site-specific policy change relating to the proposed private**  
**school use of a former convent**  
**574 Northcliffe Avenue, City of Hamilton**

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### **BACKGROUND:**

1. Section 7 and 10(1) of the *Niagara Escarpment Planning and Development Act (NEPDA)* require that the Niagara Escarpment Commission (NEC) furnish each affected ministry and municipality, within or partially within the Niagara Escarpment Planning Area, with a copy of the proposed Amendment to the Niagara Escarpment Plan (NEP) and invite ministries and municipalities to make comments on the amendment to the NEC.
2. Section 10(1)(b) of the *NEPDA* requires that notice of the proposed amendment be published in such newspapers having general circulation in the Niagara Escarpment Planning Area as the NEC considers appropriate.
3. The NEC is also required to post the amendment on the Environmental Bill of Rights Registry (EBR) for public notice and comment.
4. Although not legislatively required, the NEC also circulates First Nations, other public agencies and stakeholders where the NEC believes there may be an interest (e.g. conservation authority) and provides details of the proposed amendment on the NEC website.

The notice period under the *NEPDA* is 60 days but the NEC may extend the time if, in the NEC's opinion, additional time for commenting becomes necessary.

### **PURPOSE:**

The purpose of this Report is for the NEC to approve the recommended circulation and notification list for the Niagara Escarpment Plan Amendment PW 218 20, for the proposed site-specific policy in Part 2.21 (f) of the NEP relating to 574 Northcliffe Avenue.

**RECOMMENDATION:**

That the NEC instruct staff, pursuant to the *NEPDA*, to circulate the proposed amendment to municipalities provide notice to the public in the newspaper (at the applicant's expense as the normal administrative practice) and on the NEC website and request that the amendment be posted on the Environmental Registry.

Staff will also circulate ministries, agencies and stakeholders who may have an interest or have indicated an interest in the Plan Amendment, including the property owners or their agents. As now required by the PPS, staff will consult the First Nations who may have an interest in the subject lands.

The recommended comment period is 60 days.

Require circulation and notice as follows (in accordance with S. 10.(1) of the *NEPDA*):

1. Municipalities

Circulate to the City of Hamilton, City of Burlington, Region of Halton.

2. Newspaper

Hamilton Spectator

3. Public Interest Advisory Committee

**Prepared by:**

Original signed by:

\_\_\_\_\_  
Nancy Mott, MCIP, RPP  
Senior Strategic Advisor

**Approved by:**

Original signed by:

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Kim Peters, MCIP, RPP  
Acting Manager

Original signed by:

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Debbie Ramsay, MCIP, RPP  
Acting Director