**Niagara Escarpment Commission**

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# MINUTES OF M826/07-2023

**NIAGARA ESCARPMENT COMMISSION**

**VIRTUAL MEETING ONLY: Microsoft Teams**

**July 20, 2023**

## MEMBERS PRESENT:

J. Chevalier, J. Collard (Chair), M. Curley, G. Driedger, M. Francis, R. Gibson,
L. Golden, D. Hutcheon, G. Krantz, K. Lucyshyn, D. McKinlay, D. Measures, D. Nielsen, J. Vida, A. Witteveen.

## REGRETS:

None.

## STAFF PRESENT:

K. Woeller, K. Peters, M. Cairns, C. Tansony, D. Dykeman, J. Muller, A. Laven,
G. Hang, J. Sperling, E. Vanderwal, L. Wang, D. Alorse, A. Bochenek, J. Olah.

## ALSO PRESENT:

D. Kappos, Counsel; J. Gaweda, Conservation Programs Advisor, Natural Heritage Section, W. Wood, Policy Research Intern, Policy Division, Ministry of Natural Resources and Forestry; S. Kenney, Senior Planner, Town of Caledon, R. Patrick, C.O.N.E.

## MEETING CALLED TO ORDER 10:15 a.m.

Chair Jim Collard presided.

## INTRODUCTIONS / ANNOUNCEMENTS:

The Chair, James (Jim) Collard, introduced himself to the Commissioners, NEC staff and guests.

## LAND ACKNOWELDGEMENT:

The Chair read the Land Acknowledgment.

**DIRECTOR’S REMARKS:**

The Director welcomed those participating virtually and thanked everyone for accommodating the change to the meeting from hybrid to virtual only due public interest in the meeting and the limited meeting room space. The Director noted that the NEC is committed to accessibility and can make alternate formats available to those that require them. Information on how to access accommodations is available on the website or by contacting the general telephone line. Closed captioning is also available during the meeting. The Director referenced the Ontario Public Service (OPS) Code of Conduct and noted that meeting participants are to be respectful to one another, and that meetings are to be inclusive and free from discrimination and harassment.

## BUSINESS ARISING FROM PREVIOUS MEETINGS:

No business arising.

**APPROVAL OF MINUTES**

**M826R1/07-2023**

*Moved By: Hutcheon*

*Seconded By: Nielsen*

*“That the Commission approve the June 15, 2023 Commission Minutes M825-06-2023 as written.”*

*Motion Carried*

## MOTION FOR SPEAKERS

**M826R2/07-2023**

*Moved By: Gibson*

*Seconded By: Witteveen*

*“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

## No conflicts were declared.

## DISCUSSION AGENDA: A and B PACKAGES

## (*Staff Reports, External submissions)*

**A1**

**STAFF REPORT**

## Development Permit Application N/F/2022-2023/443

Cave Spring Road

Part Lot 11, Concession 5 Clinton

Town of Lincoln, Region of Niagara

### PROPOSAL:

To recognize the construction of a ± 1,193.6 cu m (42,151.6 cu ft) offline pond with a maximum surface area of ± 391.6 sq m (4,215.1 sq ft) and a maximum depth of ± 3 m (9.8 ft) for farm irrigation, on an existing 2.5 ha (6.24 ac) lot that supports an agricultural use.

**RECOMMENDATION:**

That the Commission **refuse** the application for the following reasons:

1. New agricultural uses and ponds are not permitted within the Escarpment Natural Area and the proposal conflicts with the objectives of the Escarpment Natural Area.
2. The development conflicts with the General Development Criteria in Part 2.2.1 and Part 2.2.5 of the NEP.
3. The development conflicts with Part 2.6.7 of the NEP, which does not permit ponds within key natural heritage features.
4. The development conflicts with Part 2.7.2 of the NEP, which does not permit agriculture within key natural heritage features.
5. The development is not supported by the policies in Section 2.1 (Natural Heritage) of the PPS.

Note:

* Cheryl Tansony, Senior Planner, provided a summary of the staff report and answered questions.
* Agent presented and answered questions.
* Owner was present and answered questions.

**M826R3/07-2023**

*Moved By: Measures*

*Seconded By: Lucyshyn*

*“That the Commission defer the motion as stated below to the end of the day to allow staff time to prepare conditions of approval.”*

*Motion Carried*

**M826R4/07-2023**

*Moved By: McKinlay*

*Seconded By: Curley*

*“Whereas this Commission makes the interpretation that the significant woodland boundary adjacent to the pond is the lot line of the conservation authority lands, and that the farm hedgerow adjacent to the vineyard headland is not a part of the significant woodland,*

*Be it resolved that development permit application N/F/2022-2023/443 be approved conditional on the approval of appropriate conditions ‎by this Commission, and that the Commission accept the following Conditions of Approval:*

1. *Development shall occur in accordance with the Terms and Conditions of the Development Permit.*
2. *No additional site alteration of the existing contours of the property including the placement or stockpiling of fill (i.e., excess or imported soil) on the property is permitted. Additional site alteration may require a new development permit from the Niagara Escarpment Commission.*
3. *No vegetation shall be cut or removed from the development envelope except for that identified within the development envelope in accordance with the Final Site Plan.*
4. *All disturbed areas of land or soil shall be re-vegetated and stabilized to the satisfaction of the Niagara Escarpment Commission within six (6) months from the date of issuance of the Development Permit. A native seed mix shall be used for revegetation.*
5. *Once the revegetation has been completed, photos showing the restoration of the pond banks shall be submitted to the Niagara Escarpment Commission.*
6. *There shall be no encroachment of the pond into the adjacent significant woodland. Any expansion of the pond will require a Development Permit.*
7. *Maintenance of the pond shall occur from the north side only. There shall be no access to the pond through the woodland.*
8. *No water originating from a surface water feature (e.g., watercourse, wetland) or a well water source shall be used for filling or supplementing water levels of the pond at any time.*
9. *No vegetation inhibiting chemicals or other such substances shall be added to the pond.*
10. ***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 development, including elevations and/or cross-sections. Development shall proceed in accordance with the details of the approved Final Construction Details.*
11. ***Prior to the issuance of a Development Permit by the Niagara Escarpment Commission****, an accurate and detailed* ***Final Site Plan*** *prepared by a qualified person shall be submitted for Niagara Escarpment Commission approval. The following stipulation shall be included directly on the Plan:*
	1. *The Final Site Plan shall be prepared by a qualified professional;*
	2. *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.*
	3. *Identify the areas of existing vegetation to be retained.*
	4. *Details on the restoration of lands adjacent to the pond, including proposed seed mix.*

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

1. *Conditions #10 and 11 must be fulfilled with eighteen (18) months (1.5 years) from the date of confirmation of the Commission’s decision or this conditional approval shall lapse and a Development Permit will not be issued.*

***Advisory Notes:***

1. *A Development Permit does not relieve the permit holder of any other permission (e.g., Ontario Building Code, Conservation Authorities Act, Endangered Species Act, Town of Lincoln Site Alteration Permit, MECP excess soil management regulations, etc.). A Niagara Escarpment Commission Development Permit is required prior to the issuance of any other permission.*
2. *Town of Lincoln development engineering staff advise that post condition outflow rates to the creek shall not exceed pre-condition outflow rates so as to not adversely affect downstream properties. The existing outlet should meet this condition as long as the applicant is not proposing to upgrade the diameter or that any overflow will only be active when exceeding 100 year storm quantities.*
3. *If previously undocumented archaeological resources are discovered, this may be an archaeological site, subject to Section 48(1) of the Ontario Heritage Act (OHA). Work altering the site must cease immediately and a licensed consultant archaeologist engaged to carry out an archaeological assessment to comply with Section 48(1) of the OHA. You may contact the Ministry of Citizenship and Multiculturalism (MCM) for guidance (at* *archaeology@ontario.ca**).*

*The Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.33 (FBCSA) requires that any person discovering human remains must cease all activities immediately and notify the police, and if the coroner does not suspect foul play, they shall notify the Registrar, Ontario Ministry of Public and Business Service Delivery about the burial site for its administration under the FBSA. If the human remains are associated with archaeological resources, as above the MCM should also be notified (at* *archaeology@ontario.ca**) to ensure compliance with the OHA.*”

***For the Motion: 13 votes***

*Chevalier, Curley, Driedger, Francis, Golden, Hutcheon, Krantz, Lucyshyn, McKinlay, Measures, Nielsen, Vida, Witteveen.*

***Against the Motion: 0 votes***

*Motion Carried*

NOTE: Commissioner Gibson was experiencing technical difficulties and was unable to vote.

**DISCUSSION:**

Commissioners discussed the changing nature of woodlands over time, and that the dripline of the woodland likely grew to encroach on the lands that were in agricultural use. Staff were questioned as to the impact of the irrigation pond on the watercourse; staff responded that no impact was anticipated. Concern was expressed about the need to maintain the pond, and future negative impacts on the woodland. The applicant noted that the pond can be maintained from its north side, without the need to enter the woodland on the south side of the pond.

## A2

**COMPLIANCE STAFF REPORT/ORDER TO DEMOLISH/RESTORE #2023.002**

536 Evans Road

City of Hamilton (Waterdown)

**ALLEGED VIOLATIONS:**

1. Change of use (the inclusion of a new commercial use as a landscaping business);
2. Placement of sea containers.

**REASONS FOR ORDER:**

* Municipal Property Assessment Corporation information indicates that the subject property is recognized as having a Single Detached Residential use. The change of use (the inclusion of a commercial use as a landscaping business) of the subject property has been known to NEC staff as early as May 20th, 2022. The commercial use was first observed by NEC staff through a property inspection that was conducted on July 21st, 2022. The commercial use on the subject property was

observed most recently on June 5th, 2023, from a public neighbour’s property line and currently remains in operation. A change of use of the property is considered “development” under the *Niagara Escarpment Planning and Development Act* (NEPDA).

* The commercial use as described during an NEC property inspection on July 21st, 2022, is not a permitted use in the applicable land use designation under the Niagara Escarpment Plan.
* NEC staff continue to receive multiple complaints regarding the commercial use on the subject property.
* The unauthorized sea containers placed on the subject property were first observed by NEC staff though a property inspection that was conducted on July 21st, 2022. The unauthorized sea containers were observed most recently on June 5th, 2023, from a public neighbour’s property line.
* The sea containers are suspected of being associated with the commercial landscaping business use.
* The placement of sea containers is considered “development” under the NEPDA.
* The landowner was notified through a Notice of Violation letter that was issued on August 12th, 2022, that the sea containers located on the subject property were not approved by the NEC and the existence and use of these structures for any purpose is considered a violation under the NEPDA.
* The landowner has failed to cease the commercial use of the property since the issuance of a Notice of Violation letter on August 12th, 2022.
* The landowner has failed to apply for a Development Permit Application to recognize the unauthorized sea containers or remove them from the property.

**RECOMMENDATION:**

Based on the reasons outlined in the report, and pursuant to section 24(6) of the NEPDA, NEC compliance staff are seeking the NEC’s endorsement of Order to Demolish/Restore #2023.002 with conditions.

Note:

* Dana Dykeman, Compliance Program Supervisor, provided a summary of the staff report and answered questions.
* Property Owner, presented and answered questions.
* Several Complainants presented and were available to answer questions.

**M826R5/07-2023**

*Moved By: Hutcheon*

*Seconded By: Witteveen*

*“That the Commission accept staff’s recommendation to issue the Order to Demolish / Restore # 2023.002 and conditions thereto.”*

***For the Motion: 13 votes***

*Chevalier, Curley, Driedger, Francis, Golden, Hutcheon, Krantz, Lucyshyn, McKinlay, Measures, Nielsen, Vida, Witteveen.*

***Against the Motion: 0 votes***

*Motion Carried*

NOTE: Commissioner Gibson was experiencing technical difficulties and was unable to vote.

**DISCUSSION:**

The Commission questioned the applicant and staff about what equipment could reasonably remain on the property as part of the applicant’s need to maintain his property, or for agricultural purposes. Staff noted that it is reasonable for a landowner in a semi-rural area to have some yard maintenance and snow removal equipment, but storage of equipment for commercial purposes is not permitted unless it is at the scale of a home business or industry. A Commissioner inquired whether sea cans/shipping containers are permitted in the Niagara Escarpment Plan (NEP) Area. Staff responded that there is no clear policy on this, but that they have been permitted as temporary storage, e.g., during construction of a dwelling, or when they are converted to permitted accessory structures (e.g., a shed). Negative visual impacts were noted as being an important consideration, as were Building Code requirements. Staff noted that

permanent placement of a sea can would require screening and re-coating the container in an inobtrusive colour. NEC staff would defer to the municipality regarding Building Code matters, and would recommend refusal if NEP and municipal policies could not be met.

**Broke for lunch:** 12:20 p.m.

**Reconvened:** 1:00 p.m.

**A5**

## STAFF REPORT

## DEVELOPMENT PERMIT APPLICATION PR/2017-2018/450

## Manors of Belfountain

Part East and West Half Lot 9 , Concession 5 WHS

Minor Urban Centre of Belfountain

Town of Caledon, Region of Peel

**PROPOSAL:**

To develop two-thirds of the subject lands in the Minor Urban Centre of Belfountain for a 75-lot residential plan of subdivision to be serviced on private wells and septic systems, with three stormwater management lots and new municipal streets with access to Shaws Creek Road. The majority of the remaining one-third of the lands are to be conveyed to Credit Valley Conservation Authority as a conservation area in the Niagara Escarpment Parks and Open Space System, with a portion of the lands also being conveyed to the Town of Caledon for a municipal park.

**RECOMMENDATION:**

That the application be **approved** with conditions.

Note:

* Joe Muller, Senior Strategic Advisor, provided a summary of the staff report and answered questions.
* Applicant’s planner presented and answered questions.
* Representatives of the Belfountain Community Organization presented and were available to answer questions.
* Applicant was present and answered questions.

**M826R6/07-2023**

*Moved By: Nielsen*

*Seconded By: Curley*

*“That the Commission accept staff’s recommendation to approve with the following conditions of approval.*

1. *This conditional Development Permit approval expires if preapproval conditions
2 through 8 are not fulfilled to the satisfaction of the Niagara Escarpment Commission within thirty-six (36) months of the date the Commission issued its Notice of Decision.*
2. ***Prior to the issuance of a Development Permit*** *by the Niagara Escarpment Commission, an accurate and detailed Final Site Plan shall be submitted for Niagara Escarpment Commission approval, subject to the following stipulations:*

1. *It 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 the approved development envelope on each lot/extent of all disturbed areas;*
4. *Identify the location of all existing and proposed roads, structures, lighting, private services, construction access/construction staging areas/haul routes, showing setbacks from the property lines, any watercourses or water features, top / bottom of slope, wooded areas, etc.;*
5. *Identify 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;*

1. ***Prior to the issuance of a Development Permit*** *by the Niagara Escarpment Commission, a Final Vegetation Protection Plan shall be prepared by a qualified person, for the approval of the Niagara Escarpment Commission. The Plan shall address vegetation protection and mitigation requirements and shall include but not be limited to a detailed inventory, assessment, protection and mitigation measures in accordance with the standard practices of the implementing authority.  The Final Vegetation Protection Plan is subject to the following:*

1. *Prior to commencement of any construction, protective fencing shall be installed and inspected by a qualified person and written confirmation of this shall be provided to the Niagara Escarpment Commission.*
2. *Any vegetation noted for protection and damaged from the construction process shall be reported and replaced; trees 100mm and over DBH (diameter at breast height) shall be replaced on a per caliper basis. Replacement shall be to the satisfaction of the Niagara Escarpment Commission.*
3. *Once the development has been completed, including all required mitigation measures, a letter certifying that the work has been completed in accordance with the approved Plan shall be provided to the Niagara Escarpment Commission by a qualified professional.*

1. ***Prior to the issuance of a Development Permit*** *by the Niagara Escarpment Commission, the Final Stage 2 Visual Impact Assessment encompassing Phases 1 and 2 of the Draft Plan of Subdivision shall be prepared by a qualified person, for the approval of the Niagara Escarpment Commission.*

1. ***Prior to the issuance of a Development Permit*** *by the Niagara Escarpment Commission, a Final Landscape Plan shall be prepared by a qualified person, for the approval of the Niagara Escarpment Commission. The Plan shall address all vegetation retention and planting requirements in accordance with the standard practices of the implementing authority and the Final Stage 2 Visual Impact Assessment. The following stipulations shall be included directly on the Plan:*

1. *All new tree and shrub species (including seed mixes) shall be native to Ontario except where otherwise approved by the Niagara Escarpment Commission.  Plant material shall be sourced from local plant nurseries; bush dug plant material is not acceptable.*
2. *Planting and the rehabilitation of all disturbed areas shall be completed on or before the date of expiry of the Development Permit to the satisfaction of the Niagara Escarpment Commission.*
3. *All plant material shall be guaranteed for 24 months following installation. All plant material found during this time to be dead or dying must be replaced with a size and species to the satisfaction of the Niagara Escarpment Commission*
4. *Once the development has been completed, a letter certifying the landscaping / planting work has been completed in accordance with the approved Landscape Plan shall be provided to the Niagara Escarpment Commission by a qualified person.*
5. *At the end of the 24-month plant material guarantee period, a letter certifying the plant material has survived or has been replaced in accordance with the approved Landscape Plan shall be provided to the Niagara Escarpment Commission by a qualified person.*
6. ***Prior to issuance of the Development Permit*** *by the Niagara Escarpment Commission, the developer/owner shall submit* *an updated Hydrogeological Investigation Report satisfactory to the Niagara Escarpment Commission and Region of Peel that includes a well survey and pumping test results to determine the potential impacts to local sources of water within the 500 meters surrounding area or zone of influence whichever is greater; a well design for review and approval; and a contingency/mitigation plan for any well interference complaints (attributable,*

*according to the Hydrogeology Consultant, to the operation of wells within the lands being subject to draft approval) from the residents within the 500 meters surrounding area or impact to the sources of water within the same area. Upon receipt of a Hydrogeological Investigation Report and a Contingency and Mitigation Plan deemed to be satisfactory by the NEC and Region of Peel, related provisions will be included in the Development Permit Agreement including, but not limited to details concerning: the Developer’s/Owner’s responsibility and financial obligations for a well monitoring program; contingency and mitigation measures for any impacts to water quantity and quality of on-site and neighboring private wells; and for restoring any impacted water supply to original condition.*

1. *Prior to issuance of the Development Permit by the Niagara Escarpment Commission, the Developer/Owner acknowledges and agrees the approved well design will be placed on title to the lands. All costs associated with registering said design on title shall be at the sole expense of the Developer.*

1. *Prior to issuance of the Development Permit by the Niagara Escarpment Commission, the developer/owner shall enter into a Development Permit Agreement with the Niagara Escarpment Commission, that shall be registered on title binding the current and future owners, pursuant to Section 24(2.1) of the Niagara Escarpment Planning and Development Act.  The Development Permit Agreement shall address matters relating to the development of the site, including: conditions of approval; applicable plans and drawings; well monitoring, mitigation and financial responsibilities; the phasing of the subdivision and related pre-conditions, conditions, requirements and applicable processes; the requirement for structural envelope plans for each lot to be addressed through development permit applications for each lot prior to site alteration or construction; mitigation and other measures recommended in the staff report, agency comments, and studies submitted in support of the application; and, other related matters.*

***Development Permit Conditions***

1. *The Development Permit shall expire ten (10) years from the date it was issued, or on an earlier date if the development has been completed in accordance with the Development Permit prior to that ten (10) year deadline.*

1. *Development shall occur in accordance with the Development Permit Agreement and the terms and conditions of the Development Permit, including in accordance with the Final Site Plan, the Final Phase 2 Visual Impact Assessment, Final Vegetation Protection Plan, Final Landscape Plan and Development Permit Agreement approved by the Niagara Escarpment Commission.*

***Phasing of Draft Plan of Subdivision***

1. *Subject to the conditions below, the subdivision is planned to be constructed in the two phases identified in the Draft Plan of Subdivision Manors of Belfountain Corp File # 21T-91015C drawing updated to June 30, 2022, included as Appendix 4 (the “Draft Plan of Subdivision”).*
2. *Any proposed modifications to the Draft Plan of Subdivision must first be submitted to the Niagara Escarpment Commission, which shall determine at its sole discretion whether the proposed modifications are minor, or whether the proposed modifications will instead require a new development permit application.*

***Phase 1 Draft Plan Conditions***

1. *Prior to the construction of Phase 1 of the Draft Plan of Subdivision, a qualified person shall submit the results of the well monitoring,* *in accordance with the Environmental Management Plan, IBI Group, July 8, 2021 as amended to the satisfaction of the Niagara Escarpment Commission, Region of Peel and Town of Caledon.*

1. *Prior to the registration of Phase 1 of the Draft Plan of Subdivision, the owner will convey Blocks 77 and 78 to Credit Valley Conservation for a future park in the Niagara Escarpment Parks and Open Space System. A letter shall be provided to the Niagara Escarpment Commission confirming the conveyance.*

1. *Prior to the registration of Phase 1 of the Draft Plan of Subdivision, the owner will convey Block 84 to Credit Valley Conservation to protect the grassland bird habitat. A letter shall be provided to the Niagara Escarpment Commission confirming the conveyance.*

1. *Prior to the construction of Phase 1 of the Draft Plan of Subdivision, the developer/owner shall stake each lot (Lots 1 to 48) to the satisfaction of the Niagara Escarpment Commission and the Town of Caledon.*

*Prior to any site alteration or the construction of any structures on Lots 4, 13, and 14 in the Draft Plan of Subdivision, the Town of Caledon will provide the Niagara Escarpment Commission with written confirmation that the lots are no longer being held back from residential development for their potential use for storm water management facilities.*

***Phase 2 Draft Plan Conditions***

1. *For Phase 2 of the Draft Plan of Subdivision to proceed, the developer/owner shall demonstrate that Phase 1 does not result in unacceptable water quality or quantity impacts to the on-site or neighboring users of groundwater, as determined by Niagara Escarpment Commission, Region of Peel and Town of Caledon, and shall confirm that the results of the following are to the satisfaction of the Niagara Escarpment Commission, Region of Peel and Town of Caledon:*

1. *Successful completion of Hydrogeological related matters including a well survey, pump testing requirements, well design, and a contingency/mitigation plan;*
2. *Completion of a successful well monitoring program to demonstrate no negative impacts on water quality/quantity monitoring and reporting of wells as part of the pump test, during construction and one (1) year after 100% of homes are occupied in Phase 1. Should the Developer perform a single pumping test for Phase 1 and 2 and it is done at a capacity that is equal to or higher than the required supply projected for the total lots, Phase 2 can proceed once the well monitoring program is completed during construction and one (1) year after 80% of homes are occupied in Phase 1.*
3. *Nitrate testing (upwards of five years in duration) shall be completed as part of Phase 1; and,*
4. *Confirmation/stabilization of stormwater management / grading practices (may include freezing of certain lots for a longer period of time).*

1. *If the conditions to be satisfied prior to Phase 2 being constructed have not been satisfied prior to the expiration of the Development Permit, or cannot be satisfied, then Phase 2 shall not proceed to construction.  If that occurs, and the owner elects to reconsider the land use and density of development on the Phase 2 lands, a new development permit application will be required.*
2. *Anything not fully addressed in the Final Stage 2 Visual Impact Assessment approved by the Niagara Escarpment Commission, or any proposed changes to Phase 2 of the Draft Plan of Subdivision, will require an update to the Final Stage 2 Visual Impact Assessment for the approval of the Niagara Escarpment Commission.*

***General Conditions***

1. *No site alteration of the existing contours of the property including the placement or stockpiling of fill (i.e. excess or imported soil) on the property is permitted except in accordance with the Development Permit.*

1. *Any excess soil approved for importation under this Permit shall conform to Table 1 standards in the “Rules for Soil Management and Excess Soil Quality Standards” under Ontario Regulation 406/19: On-Site and Excess Soil Management under the Environmental Protection Act, R.S.O. 1990, c. E.19, or any successor legislation or regulations.*

1. *No vegetation shall be cut or removed from the development envelope except as identified on the Final Vegetation Protection Plan and in accordance with the Development Permit.*

1. *If development has commenced under this Development Permit, any/all disturbed areas of land or soil shall be re-vegetated and stabilized to the satisfaction of the Niagara Escarpment Commission before the date of expiry of the Development Permit.*

1. *For the protection of wildlife habitat, the works associated with the lot creation, storm water management features and roads, shall not occur between March 1 and May 2 (salamander) and May 1 and July 31 (breeding birds) inclusive of any given year and must comply with the Ministry of Environment, Conservation and Parks’ and Endangered Species Act requirements. The monitoring and mitigation measures must be implemented, as noted in the Environmental Monitoring recommendations in Section 8 of the Scoped Environmental Impact Study (EIS) prepared by Savanta and dated March 2018.*

***Notes / Advisories:***

1. *A conditional approval does not limit the need for, or the requirements of any other applicable approval, licence or certificate under any statute (e.g., Planning Act, 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.*

1. *If previously undocumented archaeological resources are discovered, this may be an archaeological site, subject to Section 48(1) of the Ontario Heritage Act (OHA). Work altering the site must cease immediately and a licensed consultant archaeologist engaged to carry out an archaeological assessment to comply with Section 48(1) of the OHA. You may contact the Ministry of Citizenship and Multiculturalism (MCM) for guidance (at archaeology@ontario.ca).*

*The Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.33 (FBCSA) requires that any person discovering human remains must cease all activities immediately and notify the police, and if the coroner does not suspect foul play, they shall notify the Registrar, Ontario Ministry of Public and Business Service Delivery about the burial site for its administration under the FBSA. If the human remains are associated with archaeological resources, as above the MCM should also be notified (at archaeology@ontario.ca) to ensure compliance with the OHA.*

1. *This Development Permit does not permit the construction of signs, dwellings or accessory structures, parks or trails. Subsequent Development Permit applications by the owner or the Town will be required for such development.*

1. *The Niagara Escarpment Commission supports the protection of the night sky from excessive lighting and recommends the applicant obtain information on the use and operation of appropriate lighting fixtures in keeping with dark sky approaches.*

*This advisory note applies to any references to the Region of Peel in the conditions above.  At the time these conditions were prepared, the Planning Act provided that on a day to be named by proclamation of the Lieutenant Governor, subsection 1(1) is to be amended to define the Region of Peel as an “upper-tier municipality without planning responsibilities”.  Further, Bill 112 - An Act to provide for the dissolution of The Regional Municipality of Peel that contemplates the dissolution of the Region of Peel on January 1, 2025 has received first reading.  In light of the foregoing, if the Region of Peel no longer has responsibility over any of the matters in the conditions above (e.g. planning, water, infrastructure), the new body or bodies responsible for that matter should be contacted about the fulfilment of the condition."*

***For the Motion: 13 votes***

*Chevalier, Curley, Driedger, Francis, Golden, Hutcheon, Krantz, Lucyshyn, McKinlay, Measures, Nielsen, Vida, Witteveen.*

***Against the Motion: 0 votes***

*None.*

*Motion Carried*

NOTE: Commissioner Gibson was experiencing technical difficulties and was unable to vote.

**DISCUSSION:**

A Commissioner asked if the proposed changes to the Provincial Policy Statement would have an impact on this application. NEC staff responded that generally an approval must be consistent with the policies in place at the time of approval, and that future policy changes do not have an impact, unless the new policies are intentionally made to be retroactive. A Commissioner questioned why the lots in the subdivision were of such a large size. It was noted that each lot must accommodate a septic system and a well. Concern was expressed by a Commissioner about adjacent farms and impacts on right-to-farm. It was noted that the title for each lot in the subdivision would reference active farm operations in the surrounding area.

**C1**

**INFORMATION REPORT**

**NEC Comments on the Proposed Provincial Planning Statement**

**INTRODUCTION:**

The Ministry of Municipal Affairs and Housing is consulting on a policy proposal published to the Environmental Registry of Ontario on April 6, 2023, for a proposed integrated province-wide land use planning policy document to replace *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019* and the *Provincial Policy Statement, 2020* (PPS). The proposed Provincial Planning Statement is the consolidated planning document, and it has been prepared partially to support meeting the Government’s housing objectives. The deadline to submit comments is August 4, 2023, NEC staff has prepared comments in response to the Environmental Registry posting.

**RECOMMENDATION:**

That the Commission receive the report for information and direct staff to submit comments outlining the items referenced in the staff report to the Ministry of Municipal Affairs and Housing for its consideration.

Note:

* Amaraine Laven, Senior Strategic Advisor, was available to answer questions.

**M826R7/07-2023**

*Moved By: Measures*

*Seconded By: Curley*

*“That the Commission receive the information report and directs staff to submit comments outlined in the staff report to the Ministry of Municipal Affairs and Housing for its consideration.”*

*Motion Carried*

**DISCUSSION:**

The Chair thanked Ms. Laven for the excellent report.

## CONSENT AGENDA/ITEMS MOVED FOR DISCUSSION:

Information only Items

G1 Director Approvals and Dashboard for June 2023

G2 Appeals and Hearings Status Chart as of June 30, 2023

G3 Director’s Report for June 2023

G4 Plan Amendments Status Update as of June 30, 2023

G5 Ontario Land Tribunal Letter dated July 7, 2023

OLT File No. 22-004713 (NEC File No. G/R/2022-2023/025)

Appeal of NEC Decision

**M826R8/07-2023**

*Moved By: Hutcheon*

*Seconded By: Golden*

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

*Motion Carried*

**A4**

**STAFF REPORT**

**DEVELOPMENT PERMIT APPLICATION H/R/2021-2022/139**

134 Tremaine Road

Part Lot 4, Concession 7, Esquesing

Town of Milton, Region of Halton

**PROPOSAL:**

To demolish an existing ± 98.15 sq m (± 1,056.48 sq ft) one storey single dwelling with a maximum height of 4.57 m (15 ft), and to demolish a ± 62.20 sq m (± 669.51 ft) detached garage, to construct a two storey ± 266.85 sq m (± 2,872.35 ft) single dwelling with attached garage and porch with a maximum height of ± 8.24 m (± 27 ft), on an existing 0.14 ha (0.34 ac) lot that supports a single dwelling and accessory facilities.

**RECOMMENDATION:**

That the Commission **approve** with conditions.

Note:

* Ginny Hang, Senior Planner, presented and answered questions.
* Applicant’s planning consultant presented and answered questions.
* Applicant was present and answered questions.

**M826R9/07-2023**

Moved By*: Krantz*

Seconded By*: Hutcheon*

*“That the Commission accept staff’s recommendation for approval with the following conditions.*

1. *Development shall occur in accordance with the Terms and Conditions of the Development Permit.*
2. *The Development Permit shall expire three (3) years from the date it has been issued or once the development has been completed in accordance with the Development Permit.*
3. *No site alteration of the existing contours of the property including the placement or stockpiling of fill (i.e., excess or imported soil) on the property is permitted with the exception of that identified within the development envelope in accordance with the* ***Final Site Grading and Servicing Plan*** *prepared by Land & Building Experts dated February 1, 2023.*
4. *No vegetation shall be cut or removed from the development envelope except for that identified within the development envelope in accordance with the* ***Final Site Plan*** *prepared by Sensus Design & Build, dated March 6, 2023, and the* ***Final Tree Preservation Plan*** *prepared by Davey Resource Group, dated December 19, 2022.*
5. *If development has commenced under this Development Permit, any/all disturbed areas of land or soil shall be re-vegetated and stabilized to the satisfaction of the Niagara Escarpment Commission on or before the date of expiry of the Development Permit.*
6. *Exterior lighting on all structures should be limited only to that which is necessary for safety and should be subdued and directed downwards.*
7. *All waste materials generated from the demolition shall be completely removed from the property and taken to an authorized receiving site (e.g., municipal landfill site, salvage / reclamation facility, re-used / recycled elsewhere) and not stored or buried on-site. All disturbed areas shall be immediately stabilized / rehabilitated as per the* ***Final Site Plan*** *prepared by Sensus Design & Build, dated March 6, 2023.*
8. *Prior to the commencement of any development, erosion and sediment control measures (e.g., fencing, blankets, rip-rap), and vegetation protection fencing shall be implemented and maintained as shown on the* ***Final Site Grading and Servicing Plan*** *prepared by Land & Building Experts dated February 1, 2023, and* ***Final Tree Preservation Plan*** *prepared by Davey Resource Group, dated December 19, 2022 until all disturbed areas are stabilized. It is the responsibility of the landowner to implement, monitor and maintain all erosion and sedimentation control measures and vegetation protection fencing in good condition until vegetative cover has been successfully established and the development is completed.*
9. *Development shall proceed in accordance with the* ***Final Site Plan*** *prepared by Sensus Design & Build, dated March 6, 2023.*
10. *Development shall proceed in accordance with the details of the* ***approved Final Landscape Plan [L101 to L02]*** *prepared by Sensus Design & Build, dated July 5, 2023.*
11. *Development shall proceed in accordance with the details of the approved* ***Final Tree Preservation Plan*** *prepared by Davey Resource Group, dated December 19, 2022.*
12. *Development shall proceed in accordance with the details of the approved* ***Final Construction Details*** *[Drawing A101 to A112] prepared by Sensus Design & Build, dated February 22, 2023.*
13. *Development shall proceed in accordance with the* ***Final On-Site Sewage Disposal System Design*** *prepared by Ecometrix Inc., dated October 28, 2022.*
14. *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 coloured rendering details for the proposed dwelling that demonstrates darker colours for the dwelling.*
15. *Condition 14 must be fulfilled within 18 months from the date of confirmation of the Commission’s decision or this conditional approval shall lapse, and a Development Permit will not be issued.*

***Advisory Notes:***

1. *A Development Permit does not relieve the permit holder of any other permission (e.g., Ontario Building Code, Conservation Authorities Act, Endangered Species Act, etc.). A Niagara Escarpment Commission Development Permit is required prior to the issuance of any other permission.*
2. *Should deeply buried archaeological remains/resources be found on the property during construction activities, the Ontario Ministry of Citizenship and Multiculturalism (MCM) should be notified immediately (416-212-8886 or archaeology@ontario.ca). In the event that human remains are encountered during construction, the proponent should immediately contact the appropriate authorities (police or coroner) and all soil disturbance must stop to allow the authorities to investigate and the Registrar of Cemeteries to be consulted.*
3. *The Niagara Escarpment Commission supports the protection of the night sky from excessive lighting and recommends the applicant obtain information on the use and operation of appropriate lighting fixtures in keeping with dark sky approaches.*
4. *The Owner is warned that failure to maintain the sewage treatment system (Waterloo BioFilter WaterlooNOx-LSTM Wastewater Treatment System) may result in Region of Halton guidelines for nitrate-nitrogen loading at the property line not being met and may negatively impact the quality of groundwater and neighbouring wells. The Owner is to keep the sewage system in good working order such that the design specifications for removal of nitrate-nitrogen, five-day carbonaceous biochemical oxygen demand (CBOD5), and total suspended solids (TSS) are maintained at all times.*
5. *The Owner should be aware of the need to implement all water and wastewater quality treatment requirements as outlined in the Hydrogeological Investigation by Terraprobe (dated May 17, 2022); the Onsite Sewage Disposal System Design (dated October 28, 2022); and the Waterloo Biofilter Maintenance Contract (signed October 28, 2022). The Owner is notified of their responsibility for all risks and expenses associated with the water and wastewater quality treatment requirements.*
6. *The Owner and/or Septic Maintenance/Contractor retained to service the sewage system in accordance with the Waterloo BioFilter WaterlooNOx-LSTM Wastewater Treatment System manufacturer specifications (which shall include but is not limited to a requirement to sample nitrate-nitrogen (to ensure the system is operating in accordance with the system’s design specifications)), is notified that they are to provide Halton Region (Planner - Hydrology and Groundwater) annually with the testing results of the system including nitrate-nitrogen loading/reduction for a period of five years after occupancy of the dwelling.*
7. *The reserve sewage leaching bed area is to be kept clear of any structures.*
8. *The Owner is notified that to ensure the System is properly installed and maintained, the Owners should be aware of the need to agree and enter into a System Service Contract (which shall include but is not limited to a requirement to sample nitrate-nitrogen), executed by the Owners and the qualified Septic Maintenance Service Provider which is to the Region’s satisfaction.”*

***For the Motion: 13 votes***

*Chevalier, Curley, Driedger, Francis, Gibson, Golden, Hutcheon, Krantz, Lucyshyn, McKinlay, Measures, Nielsen, Vida.*

***Against the Motion: 1 vote***

*Witteveen.*

*Motion Carried*

**DISCUSSION:**

Commissioners expressed concern about the location of the proposed dwelling farther forward on the lot than neighbouring dwellings. It was noted that this is necessary to accommodate a septic system behind the house. It was noted that municipal sewer servicing would soon be introduced to the area, but only to lots within the Town of Milton’s settlement area. The subject property is not within the settlement area.

**A3**

**STAFF REPORT**

**Development Permit Application G/A/2022-2023/583**

576699 Concession 9

W Part Lot 3, Concession 10 EGR

Municipality of Chatsworth (Holland), County of Grey

**PROPOSAL:**

To recognize the Existing Use of Ridgewood Springs Organic Farm and Retreat Centre (renamed Bubble Grove) that historically included the following activities:

* Hosting group retreats and providing short-term accommodations and on farm camping for ±30 people
* Events:
	+ Workshops and classes (farming & spiritual classes)
	+ Tours (farm tours, wagon rides apple picking, etc.)
	+ Celebrations (honeymoons, weddings, family reunions)
	+ Camps (youth groups)
	+ Retreats (multi day and week-long retreats for groups)
* On-site sales (apples, produce, honey, books & spiritual items)
* Offering recreational, fitness, and educational experiences including trail hikes, swimming, volleyball and cross-country skiing on the property

To expand the Existing Use by establishing “Bubble Grove Nature Escape” to include the following attractions and amenities:

* Five ‘bubble dome suites’ (camping huts) that are 7.0 m (23 ft) diameter, 8.0m (26ft) diameter and 9.0 m (30 ft) diameter with a total proposed area of 268 m2 (2,892 ft2) and approximately 4.5 m in height that are placed on a deck and include a kitchenette, composting toilet either inside the dome or in a separate washroom pod, outdoor shower and covered outdoor seating. Several of the domes will include a wood burning sauna and hot tub. The domes are fully off-grid with solar power, wood and propane appliances.
* Five additional washroom pods located in different areas of the property with toilet and shower to support tent camping and farm activities (including the washroom pods associated with the domes there are a total of 10 washroom pods proposed)
* One 5.5 m high, 14 m (45 ft) diameter for a total of 148 m2 (1,590 ft2) growing dome (greenhouse) to produce plants and food on a year-round basis
* One 5.5 m high, 14 m (45 ft) diameter and 148 m2 (1,590 ft2) gathering dome for retreat activities on a (1,849 ft2) and to host community events (yoga classes, workshops, celebrations, etc.) to be used for small-scale classes and workshops (5 – 25 people) or special events that could accommodate (25 – 350 people)
* One 74 m2 (800 ft2) open air gazebo featuring an outdoor kitchenette and dining area
* Installation of a new entrance and laneway on Concession Road 9 approximately 170 m in length as alternative access for family and guests
* Installation of one 1,296 m2 (13,950 ft2) new guest parking area
* Seven dedicated camp sites each 55.7 m2 (600 ft2) covering a total area of 389.9 m2 (4,200 ft2) and 2 occasional camp areas of 2 to 8 tents offered 2 to 3 times per month in the warmer months.

**RECOMMENDATION:**

That the Commission **refuse** the application with the exception of the growing dome.

Note:

* Janet Sperling, Senior Planner, presented and answered questions.
* Several neighbours both for and against the proposal presented and were available to answer questions.
* Applicants presented and answered questions.

**M826R10/07-2023**

Moved By*: Hutcheon*

Seconded By*: Driedger*

*“That the Commission accept staff’s recommendation of refusal with the exception of the growing dome for the following reasons:*

1. *The previously established religious retreat function on the property fails to meet the Niagara Escarpment Plan definition of an Existing Use;*
2. *Notwithstanding the failure of the previously established use to meet the definition of an Existing Use, the proposed development cannot meet the development criteria associated with the change or expansion of an Existing Use in Part 2.3 of the Niagara Escarpment Plan;*
3. *On-Farm Diversified Uses and Agriculture-Related Uses are not permitted in Escarpment Protection Area unless they are located in a Prime Agricultural Area;*
4. *Unserviced camping is only permitted on public and institutional lands in Escarpment Protection Area;*
5. *The intent of the County of Grey Official Plan is to not allow camping as an On-Farm Diversified Use; and*
6. *There is significant opposition to the proposal due to concerns about the intensity of the proposed development and land use incompatibility.”*

***For the Motion: 8 votes***

*Curley, Driedger, Francis, Gibson, Golden, Hutcheon, Krantz, Witteveen.*

***Against the Motion: 5 votes***

*Lucyshyn, McKinlay, Measures, Nielsen, Vida.*

*Motion Carried*

NOTE: Commissioner Chevalier did not vote due to technical difficulties.

**DISCUSSION:**

A Commissioner noted that staff had done previous work on guidelines for special events. Staff acknowledged this work but noted that it is not realistic to try to regulate events that did not change the primary use of a property. However, staff noted that where on-going events of a commercial nature were a change in the use of land, the NEC has a regulatory role, and that the land use impacts of such uses need to be reviewed. Staff also clarified that the proposed festival in August had been cancelled by the applicant and was not part of the development permit application under consideration. Commissioners sought clarity regarding proposed camping uses on the site, whether building permits from the municipality were required, and alternative uses for the property that aligned with the Niagara Escarpment Plan (e.g., bed and breakfast). Several Commissioners expressed support for the proposal, noting that outdoor recreational uses such as the subject proposal should be encouraged in the Niagara Escarpment Plan Area. Other Commissioners expressed concern about the intensity of the proposed use, including compatibility with neighbouring land uses.

**NEW BUSINESS**

None.

## ADJOURNMENT

**M826R11/07-2023**

*Moved By: McKinlay*

*“That this meeting be adjourned.”*

*Motion Carried*

**Time of Adjournment:** 5:30 p.m.

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 James (Jim) Collard, Chair