**Niagara Escarpment Commission**

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# MINUTES OF M827/08-2023

**NIAGARA ESCARPMENT COMMISSION**

**HYBRID MEETING**

**August 17, 2023**

## MEMBERS PRESENT:

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

## REGRETS:

## G. Driedger, R. Gibson.

## STAFF PRESENT:

K. Woeller, K. Peters, M. Cairns, C. Tansony, L. Wang, L. Rodriguez Miguel, D. Alorse, 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; R. Patrick, C.O.N.E.

## MEETING CALLED TO ORDER 10:00 a.m.

Chair Jim Collard presided.

## INTRODUCTIONS / ANNOUNCEMENTS:

The Chair welcomed all participants to the meeting. He introduced Dufferin County Commissioner Gail Little, and Peel Region Commissioner Lynn Kiernan.

## LAND ACKNOWELDGEMENT:

The Chair read the Land Acknowledgment.

**DIRECTOR’S REMARKS:**

The Director welcomed the meeting participants and new commissioners, noting that all Commissioner positions are now filled. She advised that Commissioner agendas now include motions as a service improvement, and any feedback and other suggestions are welcome. The Director shared the Ontario Government Accessibility and Code of Conduct rules and advised that closed captioning is available for online participants in both English and French. She also advised Commissioners to email their vote to the minute taker to ensure their votes is counted if they have any technical issues.

## BUSINESS ARISING FROM PREVIOUS MEETINGS:

No business arising.

**APPROVAL OF MINUTES**

**M827R1/08-2023**

*Moved By: Witteveen*

*Seconded By: Lucyshyn*

*“That the Commission approve the July 17, 2023 Commission Minutes M826-07-2023 as written.”*

*Motion Carried*

## MOTION FOR SPEAKERS

**M827R2/08-2023**

*Moved By: Nielsen*

*Seconded By: Hutcheon*

*“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/C/2020-2021/233

5584 Niagara Town Line Road

PT SMFD TWP GORE 3

City of Niagara Falls, Region of Niagara

### PROPOSAL:

To recognize the conversion of an existing 1.36 ha (3.38 ac) lot to support an agricultural use (organic farm) and on-farm diversified use/agriculture-related use by undertaking the following work:

* To convert the existing 2-storey 56 sq m (602 sq ft) accessory structure to support a retail store on the first floor (on-farm diversified use/agriculture-related use), and a residential use on the second floor
* To construct a ±18 sq m (±200 sq ft) washroom building
* To install a temporary portable washroom
* To construct a ±267.56 sq m (±2,880 sq ft) structure accessory to agriculture (greenhouse) with a maximum height to peak of ±4.5 m (±14.7 ft)
* To construct a ±178.4 sq m (±1,920 sq ft) structure accessory to agriculture (hoop house), with a maximum height to peak of ±4.5 m (±14.7 ft)
* To place a ±33.4 sq m (±360 sq ft) shipping container accessory to agriculture (flower storage and display), with an upper deck for an apiary, with a height to peak of ±3.96 m (±13 ft)
* To place a ±33.4 sq m (±360 sq ft) shipping container accessory to agriculture (cold storage), with an upper deck for an apiary, with a height to peak of ±3.96 (±13 ft)
* To construct a ±156.1 sq m (±1,680 ft) concrete pad and a ±17.2 sq m (±185 sq ft) gazebo/trellis, with a height to peak of ±3 m (±10 ft)
* To construct a ±15.8 sq m (±170 sq ft) gazebo with associated concrete pad, with a height to peak of ±4.5 m (±14.8 ft)
* To construct a ±49.2 sq m (±530 sq ft) structure accessory to agriculture (yurt for seed storage)
* To construct a ±27 sq m (±290 sq ft) structure accessory to agriculture (cooler fridge)
* To construct a ±40 sq m (±430.5 sq ft) building accessory to agriculture (shed)
* To construct an asphalt, 13 space, ±1,330 sq m (± 14,316 sq ft) parking area
* To upgrade a private sewage disposal system
* To import approximately 100 tonnes (5 truck loads) of organic compost to help improve soil conditions.
* To install a ±3.3 sq m (±35.2 sq ft) sign
* To use the lawn area for organized programs, including yoga

Note: All work has already commenced with the exception of the washroom building.

### RECOMMENDATION:

1. Approval of the agricultural use and associated buildings and structures, subject to the conditions in Appendix 1.
2. Refusal of the on-farm diversified use and associated buildings and structures for reasons listed in Appendix 2.

Note:

* Cheryl Tansony, Senior Planner, provided a summary of the staff report and answered questions.
* Applicant presented and answered questions.
* Business Operator presented and answered questions.

**M827R3/08-2023**

*Moved By: Vida*

*Seconded By: Witteveen*

*“That the Commission approve recommendation 1, the agricultural use and associated buildings and structures, subject to the following Conditions of Approval:*

1. *Development shall occur in accordance with the Terms and Conditions of the Development Permit.*
2. *No site alteration of the existing contours of the property including the placement or stockpiling of fill (i.e., excess or imported soil) on the property is permitted with the exception of that identified within the development envelope in accordance with the Final Site Plan.*
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. *The retail store shall be used for the sale of produce grown on the property, produce grown in the area, and value-added farm products from the area only. The sale of non-agricultural products (i.e., baked goods, coffee) is not permitted.*
5. *The approved structures other that the retail store shall be used for agriculture only and shall not be used as a restaurant, café/bistro, banquet hall, conference facility, or large-scale recurring events.*
6. *A dwelling unit is permitted within the second storey of the retail store. No other single dwelling or dwelling unit is permitted elsewhere on the property unless approved through a subsequent development permit application. The dwelling unit is not approved for use as a short-term vacation rental or for commercial, industrial, institutional or livestock use.*
7. ***Prior to the issuance of a Development Permit by the Niagara Escarpment Commission,*** *an accurate and detailed* ***Final Site Plan*** *shall be submitted for Niagara Escarpment Commission approval. The following stipulations shall be included directly on the Plan:*
   1. *All drawings submitted must be drawn to scale (bar scale shown), reference the application number and address of the proposal, be dated (revisions as well), and include the name of the relevant individual or consultant who prepared the drawing;*
   2. *Location of all existing and proposed structures, sewage disposal system, signage, driveway, exterior lighting, etc. showing setbacks from the property lines, any watercourses or water features, top / bottom of slope, wooded areas, etc.*
   3. *The uses of each existing and proposed structure shall be labelled directly on the final site plan.*
   4. *The location and dimensions of the private sewage system and washroom facilities shall be included as per Condition #9.*

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

1. ***Prior to the issuance of a Development Permit by the Niagara Escarpment Commission,*** *the landowner shall submit for the approval of the Niagara Escarpment Commission,* ***final construction details*** *for the washroom building and sheds, including exterior elevations, total floor area, floor plans, height to roof peak from lowest grade, and any exterior lighting. Development shall proceed in accordance with the details of the approved Final Construction Details.*
2. ***Prior to the issuance of a Development Permit by the Niagara Escarpment Commission****, the landowner shall receive an Acknowledgement Letter from the* *Ministry of Citizenship and Multiculturalism (copied to the NEC) confirming that archaeological reporting has met licensing requirements prior to development on site.*
3. ***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 and Niagara Region, a* ***final septic system design****. The proposed washroom building may be redesigned and/or relocated in accordance with the results of the septic system design. The final location shall be included on the final site plan.*
4. ***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 and Ministry of Transportation, an updated stormwater management brief.*
5. *All exterior lighting shall be designed to be minimal, subdued, of low height, and downward facing.*
6. *The sign shall not be illuminated.*
7. *Condition #7, 8 , 9 , 10, and 11 must be fulfilled within 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, Regional Construction Encroachment and Entrance Permit, Regional Sign permit, etc.). A Niagara Escarpment Commission Development Permit is required prior to the issuance of any other permission.*
2. *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.*
3. *The Region of Niagara advises that the access closest to the intersection will need to be closed and the entrance removed and boulevard reinstated to Regional standards.*
4. *The Region of Niagara advises the subject property has frontage along Regional Road 61 (Niagara Townline Road). This section of road has a substandard road allowance. It should be noted that a widening may be required for future road expansion.*
5. *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*](mailto: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*](mailto:archaeology@ontario.ca)*) to ensure compliance with the OHA.”*

*Motion Carried*

**M827R4/08-2023**

*Moved By: McKinlay*

*Seconded By: Lucyshyn*

*“Whereas the Province of Ontario supports a growing desire by consumers to go out to farms for leisure opportunities and access to high quality fresh foods,*

*And Whereas the OFDU proposed provides for such experience for the consumer,*

*And given an interpretation by this Commission that the OFDU use of parking is 10% or 133m2 which allows this proposal to meet OFDU area requirements,*

*Be it resolved that this Commission approve this OFDU and associated buildings and structures, conditional on regional approval of wastewater treatment and conditional on MTO approval of updated drainage,*

*and subject to approval of appropriate conditions by this Commission at a future meeting.”*

***For the Motion: 14 votes***

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

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

*Motion Carried*

**DISCUSSION:**

The Commission thanked staff for the excellent report.

The Commission expressed support for the work done on the property to date in cleaning the property and introducing agriculture and agriculture-related uses. The Commission noted that smaller agricultural properties cannot always meet NEP policies, e.g. 2% lot coverage for an on-farm diversified use. The Commission noted that the parking area is used for farm equipment and loading/unloading of produce and retail goods. The Commission felt that the Ministry of Food and Rural Affairs guidelines for agriculture-related products is narrow and should allow the sale of other products such as coffee.

The Commission asked if there are surrounding properties with similar uses to ensure consistency in decision making. Staff noted that only properties in the area that are in the NEP area or area of development control would be relevant in a comparison.

The Commission discussed the appropriateness of including partner agency conditions in the NEC development permit process. Some Commissioners felt it more appropriate for applicants to deal directly with other ministries outside of the NEC development permit process. Management advised that agency partner conditions are included to ensure that issued development permits can be supported by the partner agencies’ regulations.

**C1**

**DELEGATION REQUEST**

576799 Concession 9

W Part Lot 3, Concession 10 EGR

Municipality of Chatsworth (Holland), County of Grey

**M827R5/08-2023**

*Moved By: McKinlay*

*Seconded By: Hutcheon*

*“That the Commission accept the delegation request for the September 14, 2023 meeting.”*

*Motion Carried*

**Broke for lunch:** 11:55 a.m.

**Reconvened:** 12:35 p.m.

## CONSENT AGENDA/ITEMS MOVED FOR DISCUSSION:

Information only Items

G1 Director Approvals and Dashboard for July 2023

G2 Appeals and Hearings Status Chart as of July 31, 2023

G3 Director’s Report for July 2023

G4 Plan Amendments Status Update as of July 31, 2023

**M827R6/08-2023**

*Moved By: Hutcheon*

*Seconded By: Golden*

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

*Motion Carried*

**NEW BUSINESS**

A Commissioner asked if work has started on the next coordinated plan review. The Director advised that staff have a list of possible topics that can be shared with the Commission at the November policy meeting for feedback and input.

Commissioner Vida requested monthly updates on the Niagara Crossing Individual Environmental Assessment.

Commissioner McKinlay noted that he had been approached by members of the public regarding the alarming tree mortality in valley lands and upland slopes along the escarpment. The public suggestion was that a multi-agency review or investigation should be considered including the Niagara Escarpment Commission as a key agency.

He also noted that he has been approached by community stakeholders who are concerned that NEP policies are eliminating agricultural uses which have traditionally separated vulnerable environments within the NEP. The suggestion is that a policy review is required to allow certain agricultural uses on the basis that they form valuable fire breaks to protect vulnerable areas in the face of increasing wildfire risk.

Commissioner McKinlay also requested the proposed issues list for the next plan review include exploring a minor variance policy to help the Commission better serve the goals of the NEP.

## ADJOURNMENT

**M827R7/08-2023**

*Moved By: McKinlay*

*“That this meeting be adjourned.”*

*Motion Carried*

**Time of Adjournment:** 12:50 p.m.

**ORIGINAL SIGNED BY:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

James (Jim) Collard, Chair