



Regional Development Review
Development Services
Public Works
1151 Bronte Road,
Oakville, ON L6M 3L1
Fax: 905.825.8822

April 11, 2024

Rosi Zirger
Niagara Escarpment Commission
232 Guelph Street
Georgetown ON L7G 4B1

Dear Rosi,

**RE: Niagara Escarpment Commission – Development Permit Application
Part of Lot 19, Concession 1 NDS
0000 No. 1 Side Road
City of Burlington, Region of Halton
File: H/A/2023-2024/381**

Regional Staff have reviewed the above noted Niagara Escarpment Development Permit application, received from the Niagara Escarpment Commission's (NEC) to permit the construction of a new gravel driveway to provide access to the vacant parcel of land as follows:

- To construct a ± 9 m wide by ± 163.05 m long gravel driveway and from a new access to #1 Sideroad running southerly to the agricultural fields and to install a fence along the property line adjacent to the driveway on the 23.28 ha (57.53 ac) existing vacant agricultural lot.

Regional staff are **unable** to provide a favourable recommendation at this time as additional information is required to ensure that areas of Regional interests related to the Regional Natural Heritage System are addressed.

Planning Analysis:

The subject lands fall within the Greenbelt Plan and are designated as Protected Countryside. Per Section 2.2 of the Greenbelt Plan, the Niagara Escarpment Plan policies continue to apply and the Protected Countryside policies do not apply, with the exception of Section 3.3 (Parkland, Open Space and Trails), which does not apply to this proposal.

Within the Niagara Escarpment Plan (NEP) Area the subject lands are designated Escarpment Rural Area and Escarpment Protection Area.

The subject lands are designated Regional Natural Heritage System with a portion of these lands forming part of the Agricultural designation as identified on Map 1 of the 2009 Regional Official Plan (ROP), as amended.

The submitted NEC Development Permit application proposes to establish a new access driveway through lands which form part of the RNHS, and which contain Key Features that form part of the RNHS. As per Section 118 2 of the ROP, a systems approach is to be applied to

Regional Municipality of Halton

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implementing the Regional Natural Heritage System, and in doing so, by not permitting the alteration of any components of the RNHS unless it has been demonstrated that there will be no negative impacts on the natural features and areas or their ecological function. Further, Section 118 (3) and (3.1) requires the proponent of any development application or site alteration to carry out an Environmental Impact Assessment that is to demonstrate that the proposed development or site alteration will result in no negative impact to that portion of the RNHS.

Included as part of the NEC's circulation was a copy of a Terms of Reference (Terrastory Environmental Consulting Inc, March 25, 2023). Regional Staff previously provided comments on this scope of work which are appended hereto for the NEC's reference (See Appendix 'A').

Staff note that as a completed and accepted EIA has not been completed for these lands, that we are not in a position to confirm that the proposed development/site alteration conforms to ROP policy. Further, Regional Staff note that the proposed new access driveway is located within an area regulated by Conservation Halton and in close proximity to a mapped wetland. Comments from Conservation Halton should be obtained and addressed in this regard.

Conclusion:

Regional Staff are **unable** to provide a favourable recommendation at this time as additional information is required to ensure that matters of Regional interests are addressed. Regional Staff recommend the deferral of this application, until such time that the requested information below can be provided:

- Submission of an updated Terms of Reference for the EIA;
- Submission of a completed Environmental Impact Assessment

We trust that these comments are of assistance. Should you have any questions or require additional information, please do not hesitate to contact the undersigned.

Please send notice of the NEC's decision on this application.

Sincerely,



Adam Huycke, MCIP, RPP, CPT
Senior Planner

APPENDIX 'A'
REGIONAL NATURAL HERITAGE SYSTEM TERMS OF REFERENCE COMMENTS
MAY 2023

Brief Description of Proposal:

The proposed development is located within the Niagara Escarpment Plan area and will be subject to a future development permit application. The applicant is proposing to develop the site in 3 Phases:

- Phase 1 – new access road from No. 1 Sideroad leading to a new vineyard.
- Phase 2 – construction of a single detached dwelling, extension of driveway, and 2 large accessory buildings that are anticipated to be used for storing personal items and/or farm equipment. No other details are known.
- Phase 3 – construction of building for winery and associated parking.

It is anticipated that two separate private servicing systems will be required to service the proposal (one for the dwelling, one for the winery). No information is available at this time regarding specifics.

Materials Reviewed:

- Terms of Reference for Environmental Impact Study, prepared by Terrastory Environmental Consulting Inc., dated March 25, 2023.

Technical Comments:

Regional Staff have reviewed the Terms of Reference (TOR) prepared by Terrastory and we have the following comments for your consideration:

1. Please clarify / confirm the limits or locations for proposed field work. Based on the TOR, it would be presumed that the site in its entirety is being surveyed, however given the location for the proposed development and the presumption that the balance of the lands will not have a change in condition (i.e., will continue as agricultural similar to current use), some surveys could be scoped geographically. Approximate areas / scoping notes are acceptable – e.g., Anuran calling will assess all wetlands on the Subject Property, Aquatic survey(s) will occur in the general limits / extent noted on Figure X.
2. Headwater Drainage Features (HDFs)
 - a) Review of imagery for the subject property shows evidence of drainage (potential HDFs) across the subject property and connecting to adjacent properties (see image below). Specifically, one appears to traverse the area proposed for the house & accessory buildings.
 - b) Please undertake an assessment of HDFs as part of the EIS to ensure management of water / drainage is appropriately managed on the subject property and on/through adjacent lands.

- c) This assessment should include lands within or adjacent to the proposed development area and any areas which may drain to features or lands within this area.
- 3. Aquatic Assessment / Watercourse Characterization
 - a) The TOR states that OSAP module S4.M1 will be utilized. Please ensure that the field investigation will document flow characteristics, stream channel dimensions (wetted width, bankfull width, etc.), substrate composition, channel/shoreline morphology, in-stream cover and riparian vegetation compositions. The proposed module does not capture all of these elements and they are required to inform fish habitat / aquatic habitat.
 - b) Field investigations are to assess for presence of fish / fish habitat (seasonal, intermittent, permanent, contributory). If insufficient information on fish community is available and conditions could support fish, community sampling (to inform sensitivity) will be required.
 - c) This assessment should include the small tributary which will be crossed by the proposed driveway, the confluence with the receiving watercourse and reaches of the watercourse through the subject property as needed to assess potential impacts of the proposed land use(s).
- 4. Please include a photo log in the EIA which includes photos that best characterize the site conditions, including sets of channel photos for watercourses (u/s, d/s of assessed reaches).
- 5. The TOR Approach discusses the incorporation of broader components to be included in the EIA, in accordance with the Region's EIA Guidelines, including a linkage assessment and enhancement measures (where applicable). Please include the linkage assessment in the proposed table of contents Section 4. a. (Significant Natural Features). In addition, any applicable enhancement measures and opportunities should be discussed in section 7 (Mitigation Strategy)
- 6. Please consult with MECP to confirm if additional surveys or permitting is required with regards to SAR. Please provide correspondence that the MECP is satisfied that the proposed development can proceed as presented without contravening the *Endangered Species Act* (ESA) or correspondence as to required steps to support a decision on permitting requirements.

General Comment:

- 7. Please note that the subject property, specifically the access road, contains a Conservation Halton Regulated watercourse and flood plain hazards associated with the Provincially Significant Wetland (PSW) Complex. Consultation with Conservation Halton (CH) is required to determine any applicable Regulatory requirements in accordance with O. Reg. 162/06 and demonstration that there is safe ingress/egress during a Regional Flood. Regional staff defer to CH on this matter.

Conclusion:

Based on the above-noted recommendation, Regional Staff recommend that the above-noted comments are addressed, including any additional Regulatory requirements from Conservation Halton as part of a revised submission of the Terms of Reference.

Please have the applicant submit a revised draft TOR for review and acceptance prior to formally submitting the Environmental Impact Assessment.

We trust that these comments are sufficient and request that you please keep them on file for the Region's records. Should you have any questions or concerns, please do not hesitate to contact me or Heather Ireland.

Site Visit:

<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
Date:			
Notes: Future site visit TBD with Conservation Halton, the Niagara Escarpment Commission and the Region to delineate the limits of the PSW complex and the dripline of vegetation associated with the candidate significant woodlands.			