

Niagara Escarpment Commission

232 Guelph St.
Georgetown, ON L7G 4B1
Tel: 905-877-5191
email: necgeorgetown@ontario.ca
www.escarpment.org

Commission de l'escarpement du Niagara

232, rue Guelph
Georgetown ON L7G 4B1
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Niagara Escarpment Commission
An agency of the Government of Ontario

May 25, 2023

TO: Applicant/Agent/Owner; Assessed owners of land within 120 m of the subject property; Consulted Agencies, parties who requested Notice or are considered to have an interest in the Decision.

**RE: NOTICE OF DECISION
Development Permit Application: H/E/2020-2021/108
5235 Cedar Springs Road
2280, 2292, 2300, 2316, 2330 and 2435 No. 2 Sideroad
City of Burlington, Region of Halton**

Attached is a **Notice of Decision** from the Niagara Escarpment Commission regarding an application for a Niagara Escarpment Development Permit.

You have the right to appeal this decision. If you have reason to appeal, you must submit a copy of an Appeal Form or a written letter, **specifying your reasons for appeal, within 14 days** of the date of this letter.

An Appeal Form can be downloaded from www.escarpment.org. If you submit a written letter of appeal, please include your name, address, daytime phone number, and e-mail address. The completed Appeal Form or the letter of appeal must be submitted via **courier or in person** to this office (address above) or sent by **email to necgeorgetown@ontario.ca**.

Please note that the last day that appeals may be received is: **June 8, 2023** (midnight).

The Commission's decision is confirmed if no appeal is received within the 14 days.

If the Commission's decision is appealed, a Hearing Officer will be appointed by the Minister of Natural Resources and Forestry to conduct a Hearing. The Hearing Office may contact you for additional information regarding your appeal, and all parties will be notified by mail of the time and location of the Hearing. If you appealed, you are expected to attend the Hearing to present your reasons for appeal. If the appeal is withdrawn or the appellant fails to appear at the Hearing, the Commission's decision is confirmed.

If you have questions about this process, or about the details of the Development Permit application, please contact me at joe.muller@ontario.ca.

Yours truly,

A handwritten signature in black ink, appearing to read "Joe Muller".

for

Joe Muller
Senior Strategic Advisor

NOTICE OF DECISION
OF THE NIAGARA ESCARPMENT COMMISSION REGARDING AN
APPLICATION FOR A DEVELOPMENT PERMIT UNDER SECTION 25
OF THE NIAGARA ESCARPMENT PLANNING AND DEVELOPMENT ACT,
R.S.O. 1990, CHAPTER N.2

FILE NUMBER: H/E/2020-2021/108
(Related Amendment File PH 219 20)

APPLICANT: Nelson Aggregate Co. c/o Quinn Moyer
AGENT: MacNaughton, Hermsen, Britton, Clarkson Planning Ltd.
c/o Brian Zeman

OWNER: 546958 ONTARIO LIMITED c/o Quinn Moyer

LOCATION: 5235 Cedar Springs Road
2280, 2292, 2300, 2316, 2330 and 2435 No. 2 Sideroad
(Part Lots 17 and 18, Concession 2 NDS Nelson,
Part Lots 1 and 2, Concession 2 NS Nelson, Part Lots 1 and
2, Concession 3 NS Nelson)
City of Burlington, Region of Halton

PROPOSED DEVELOPMENT:

Development Permit Application H/E/2020-2021/108 was submitted in conjunction with Niagara Escarpment Plan Amendment Application PH 219 20. The NEP amendment application seeks to redesignate approximately 78.3 ha (193.5 ac) of lands from Escarpment Rural Area to Mineral Resource Extraction Area to expand the existing aggregate resource extraction operation. This expansion encompasses Part Lots 1 and 2, Concession 2 NS Nelson (the “west extension” having an extraction area of 34.3 ha) and Part Lots 17 and 18, Concession 2 NDS (the “south extension” having an extraction area of 14.2 ha) in the former geographic Township of Nelson, in the City of Burlington, Region of Halton. The application to amend the NEP is also to apply special policies to permit processing of material extracted from the proposed expansion within the existing quarry (Part Lots 1 and 2, Concession 3 NS Nelson).

The Development Permit Application proposes the following:

- Proposed south and west extensions of the Nelson Aggregates operation including: stripping and stockpiling of overburden; constructing temporary berms and landscaping for visual and acoustic screening of quarry operations; constructing internal haul routes; removal and stockpiling of aggregate; progressive and final rehabilitation; constructing a new pond along the western boundary of the west extension; and installing and servicing of infrastructure, structures and facilities related to the water management and monitoring system for the south and west extensions

- The taking and discharge of water, including the installation and servicing of infrastructure, structures and facilities for an integrated water management system with the existing quarry and proposed quarry extensions
- Revisions to the existing Aggregate Resources Act Licence Site Plan (Licence Numbers 5499 and 5667) including the removal of the existing 15 metre setback along a portion of the western boundary, change in the rehabilitation plan to integrate the existing quarry with the western extension, constructing a new entrance and crossing on No. 2 Sideroad and closure of the existing entrance, and amending the rehabilitation plan from ceasing pumping water on quarry closure to perpetually pumping water
- The continued use of the existing office, maintenance buildings, and facilities for washing, processing and stockpiling of aggregate, and truck washing
- The implementation of a new Adaptive Management Plan for the quarry extensions and an updated Adaptive Management Plan for the existing quarry

DECISION of the NIAGARA ESCARPMENT COMMISSION:

The application for a Development Permit, as described above, has been **REFUSED** for the following reasons:

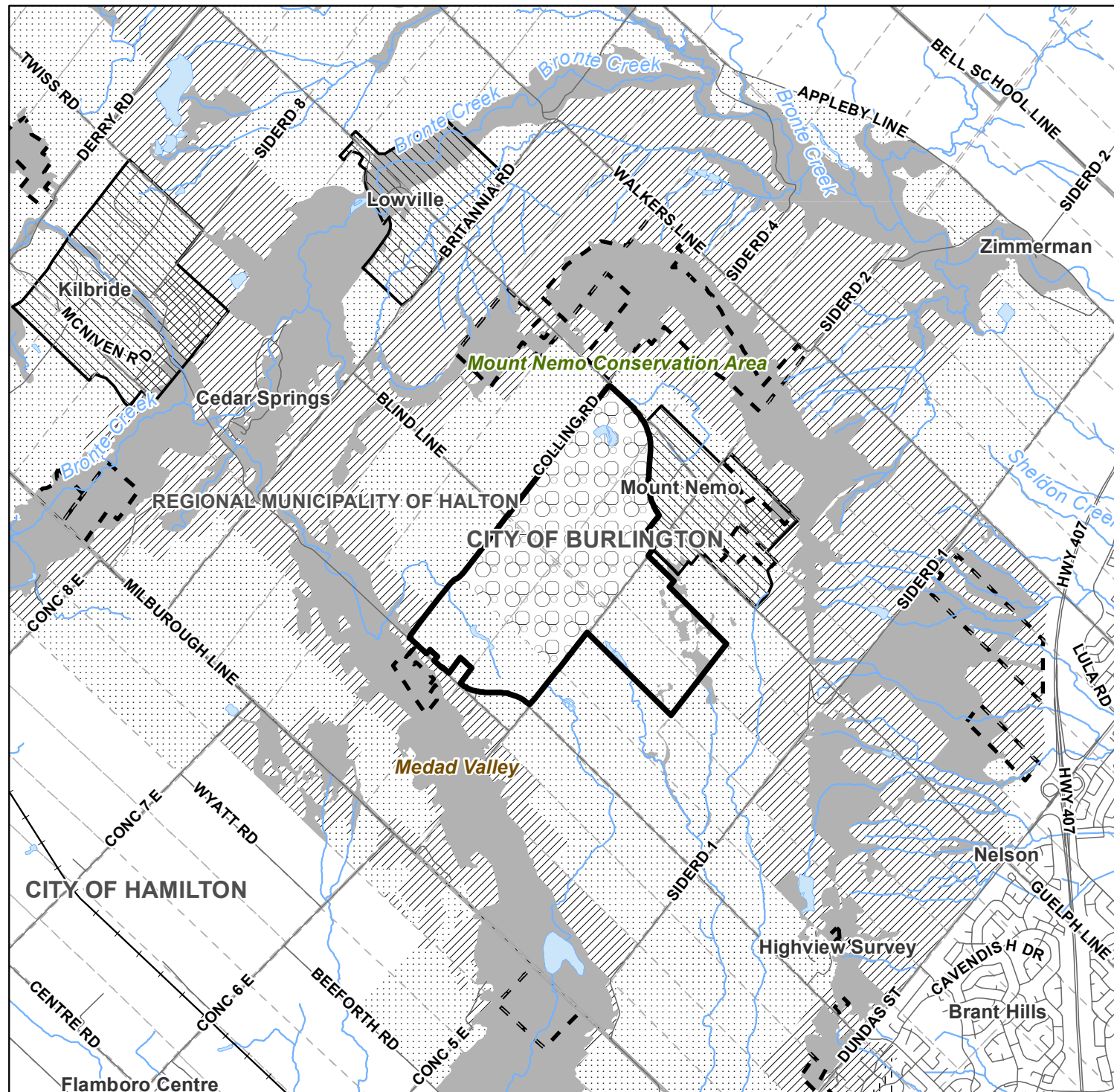
Written objections to the Niagara Escarpment Plan Amendment PH 219 20 were received. As a result, a hearing through the Ontario Land Tribunal is required in accordance with section 10(3) of the Niagara Escarpment Planning and Development Act. A refusal of the Development Permit Application is necessary in order for both the amendment and development permit applications to be considered by the Tribunal at the same time.

DATE: May 25, 2023

SIGNED: 
Kim Peters, RPP, MCIP
Manager

Map 1A Niagara Escarpment Plan

Nelson Aggregates Co.
File: H/E/2020-2021/108



- Nelson_Owned_Area
- Plan Designations**
 - Escarpment Natural Area
 - Escarpment Protection Area
 - Escarpment Rural Area
 - Mineral Resource Extraction Area
 - Urban Area
 - Minor Urban Centre
 - Public Land (in Parks and Open Space System)
- Roads
- Railway - Operational
- Waterbodies
- Watercourse
- Upper Tier Municipality
- Lower/Single Tier Municipality
- Lot and Concession 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

Scale 1:50,000
0 380 760 1140 1520
Metres

Printed on Feb 15, 2022

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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DEVRY SMITH FRANK *LLP*
Lawyers & Mediators

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BY E-MAIL

Our File No.: NELAG867

March 27, 2023

Mr. Ken Hare

Senior Counsel

Ministry of the Attorney General

Civil Law Division, Legal Services Branch

Ministry of Natural Resources and Forestry

99 Wesley Street West, Room 3420, Whitney Block

Toronto, ON M7A 1W3

E-mail: Ken.Hare2@ontario.ca

Dear Ken:

Re: Nelson Aggregate Co. re NEC

Thank you for the meeting on Thursday, March 23rd. We now have a better understanding of the process being followed by the NEC in connection with the Nelson Plan Amendment and the Development Permit applications.

The Planning Act appeals and the Aggregate Resources Act referral are currently at the Ontario Land Tribunal (OLT) and the Tribunal is waiting for the Plan Amendment and the Development Permit from the NEC. The OLT will not set a hearing date until all relevant and associated matters are before it.

In view of the fact that there are many objections to the application for a Plan Amendment, Nelson is requesting that the Plan Amendment application be referred to the Ontario Land Tribunal in accordance with the provisions of the *NEPD Act*.

We are all aware that there are also many objections to the Development Permit and that it will ultimately be appealed to the OLT by someone. The NEC must make a decision on the Development Permit before it can be appealed. As a result, Nelson has no objection to the NEC denying the Development Permit so that the application can be appealed and forwarded to the OLT.

We trust that the Plan Amendment and the Development Permit will be considered by the Commission at the earliest possible date.

Yours truly,

DEVRY SMITH FRANK *LLP*



David S. White, Q.C.

DSW/jrg

c.c. Kathy Woeller, MNRF
kathy.woeller@ontario.ca