

STAFF REPORT: Planning & Building Services Department



REPORT TO: Planning and Building Committee
MEETING DATE: September 7, 2011
REPORT NO.: PL.11.99
SUBJECT: Request for Comments
Niagara Escarpment Commission
File No. G/A/2011-2012/9080
Lesile Kiraly
Part Lots 10 and 11, Concession 1;
Part 2 to 7, RP 16R-1245;
589903 Grey Road 19;
Town of The Blue Mountains

PREPARED BY: Bryan Pearce,
Planner I

A. Recommendations

THAT Council receive Planning Staff Report PL.11.99, “Request for Comments – Niagara Escarpment Commission: Development Permit Application File No. G/A/2010-2011/9080 – Lesile Kiraly; Part Lots 10 and 11, Concession 1; Parts 2 to 7, RP 16R-1245; 589903 Grey Road 19; Town of The Blue Mountains”; and

THAT Council advise the Niagara Escarpment Commission that the Town opposes the Development Permit Application to:

- **Construct a 2 storey, 330 square metre (3552 square foot) dwelling, having a maximum height of 11 metres (36 feet) measured from the lowest grade to the peak.**
- **Install a private sewage disposal system.**
- **Extend an existing driveway to the new dwelling site.**
- **Retain an existing dwelling for use for a full-time farm employee(s) in conjunction with the horse farm/commercial horse boarding operation and seasonal horse/wilderness camp.**

on a 17.4 ha (43 ac) existing lot.

B. Background

In accordance with Section 1(b) of Town of The Blue Mountains By-law No. 2005-53, Town Staff are delegated authority to comment on behalf of Council for certain NEC permits as further noted in Corporate Policy POL.COR.07.04 “Delegation by Council of Powers and Duties” as amended. The policy notes the following:

Review and comment on Niagara Escarpment Development Permit Applications that would otherwise be in compliance with zoning

regulations were they in effect be delegated for execution to the Manager of Development Planning or designate (Director of Planning). Any Application that would not be in compliance shall be reviewed by Council.

Given that the proposal would not otherwise be in compliance, Planning Staff has brought forward this Staff Report for Council's consideration.

The purpose of this Report is to consider and to develop comments related to a DPA filed with the NEC with respect to a proposal to:

- Construct a 2 storey, 330 square metre (3552 square foot) dwelling, having a maximum height of 11 metres (36 feet) measured from the lowest grade to the peak.
- Install a private sewage disposal system.
- Extend an existing driveway to the new dwelling site.
- Retain an existing dwelling for use for a full-time farm employee(s) in conjunction with the horse farm/commercial horse boarding operation (18 stall barn, indoor riding arena, outdoor paddocks) and seasonal horse/wilderness camp

The subject property is located on Part Lots 10 and 11, Concession 1; Parts 2 to 7 of Reference Plan 16R-1245; in the Town of The Blue Mountains, locally described on the 589903 Grey Road 19. The subject lands are serviced by private on-site water and septic system services. The Owner is Leslie Kiraly, who has authorized D.C. Slade Consultants Inc, as the agent on this development permit application (DPA).

Official Plan

The Town of The Blue Mountains Official Plan designates the subject lands as Escarpment (E) and Hazard (H) in the Town of The Blue Mountains Official Plan (OP). The Hazard Designation is associated with the Silver Creek watercourse transversing through the property. The proposed new development would be within the Escarpment Designation.

The purpose of the Escarpment designation is to identify certain lands composing unique natural features, Escarpment slopes and environmentally sensitive lands associated with the Niagara Escarpment.

Due to the lands being designated Escarpment Protection in the Niagara Escarpment Plan (NEP), permitted uses include single detached dwellings and mobile or portable dwelling unit(s) accessory to an agricultural operation, as detailed under Section 1.4 of the NEP.

The OP has general development policies with regard to ancillary uses, such as the proposed farm help accommodation. Under Section 3.6.4 of the OP second farm dwellings are permitted where full time farm help is warranted on a farm operation, subject to seven criteria listed in the excerpt below:

- (a) The dwelling unit shall be located on the same property as the principal farm house.
- (b) Farm help must be necessary on a full-time basis on the farm.
- (c) The farmer shall live in the principal farm residence, with farming as his/her principal occupation.
- (d) A separate lot shall not be created for farm help purposes.
- (e) If no longer required for farm help purposes, the second farm dwelling unit shall be removed or converted to another permitted use.
- (f) Council may require an Agreement, including securities where appropriate, to ensure compliance with all criteria.
- (g) Within the Niagara Escarpment Plan Area, only mobile or portable dwelling units, without a permanent foundation or basement, shall be permitted for second farm dwelling purposes in accordance with the criteria established under Section 3.6.3(4) for temporary farm help accommodations.

With regard to item (c), Town Staff are of the understanding that the owner, Mr. Kiraly, principal occupation is other than farming.

With regard to item (g), the subject property is within the Niagara Escarpment Plan (NEP) area. Therefore, Planning Staff does not support the proposal to convert the principal farm residence, which is a permanent building with a foundation into full-time farm help accommodation, as the OP policy clearly states that it must be mobile or portable, not permanent on the site.

The criterion established under Section 3.6.3(4) states that:

Within the area of the Niagara Escarpment Plan, temporary farm help accommodation shall also be subject to the following criteria:

- (a) The dwelling unit(s) shall be mobile or portable, without a permanent foundation or basement.
- (b) The dwelling unit(s) shall be located within the farm cluster and where possible, use the existing farm lane access.
- (c) A Development Permit shall be valid for three years only and continuance of dwelling unit(s) will be considered through reapplication to the Niagara Escarpment Commission on a three year basis, subject to adequate justification that the farm help continues to be necessary to the farm operation.
- (d) The dwelling unit(s) shall be removed when the Development Permit(s) expires.

- (e) That any approval or agreement struck between the local municipality and the applicant to permit the additional dwelling unit(s) or farm help shall also be renewed, if necessary, on the anniversary of the Development Permit.

Planning Staff has concern with the proposal as the requested full-time farm help accommodation has a permanent foundation and does not promote the flexibility of ease of removal. The proposed location of the new dwelling is within the hay field to the northwest of the farmstead area and appears not to be clustering within the existing farmstead area, although utilizing the existing farm lane access to the hay field. Planning Staff note that OP policies note that the second dwelling unit needs to be close to the farm and may be permitted as an ancillary agricultural use on a recognized farm and contiguous with the existing farm buildings, not removing further lands from agricultural production – the same should apply in this instance in a proposed site location of the new dwelling, since the intent is to utilize the existing dwelling for full-time farm help accommodation.

The property has been identified as an Archaeological Area under Appendix “D” of the Official Plan. Section 8.11 of the Plan ensures that cultural heritage features are protected, preserved and enhanced as further indicated by the province. An Archaeological Assessment would be required to determine if there is significant cultural heritage features in the development area by a qualified individual.

Therefore, Planning Staff note that the development proposal would not appear to conform to the Official Plan.

Zoning

If zoning were in place, it would be in the form of permitted uses established from the Escarpment Protection Area of the NEP, while the Silver Creak watercourse would be in an environmental protection zone for the natural hazards of the floodplain.

Additional Comments

Planning Staff note that there is an executed Development Agreement between the Town and Lesile Kiraly, dated March 15, 1999 that affects the subject lands. This Agreement addresses the establishment of a commercial horse boarding operation within an existing barn and to establish a seasonal wilderness equestrian camp within temporary portable structures, as part of a NEC DPA process. It should be noted that any proposed development would cause an amendment to this said agreement.

Based on the foregoing, Planning Staff opposes this application for a Development Permit.

C. The Blue Mountains' Strategic Plan

The recommendation in this Planning Staff Report PL.11.99 is consistent and supports the following Strategic Plan's Goals:

Strategic Plan goal #1:

"Managing growth to ensure the ongoing health and prosperity of the community."

And Strategic Plan goal #3:

"Preserving and enhancing natural and environmental features, and cultural heritage of the community."

D. Environmental Impacts

The proposed development does not appear to generate any significant environmental impacts that can be regulated by the Town.

E. Budget Impact

NIL

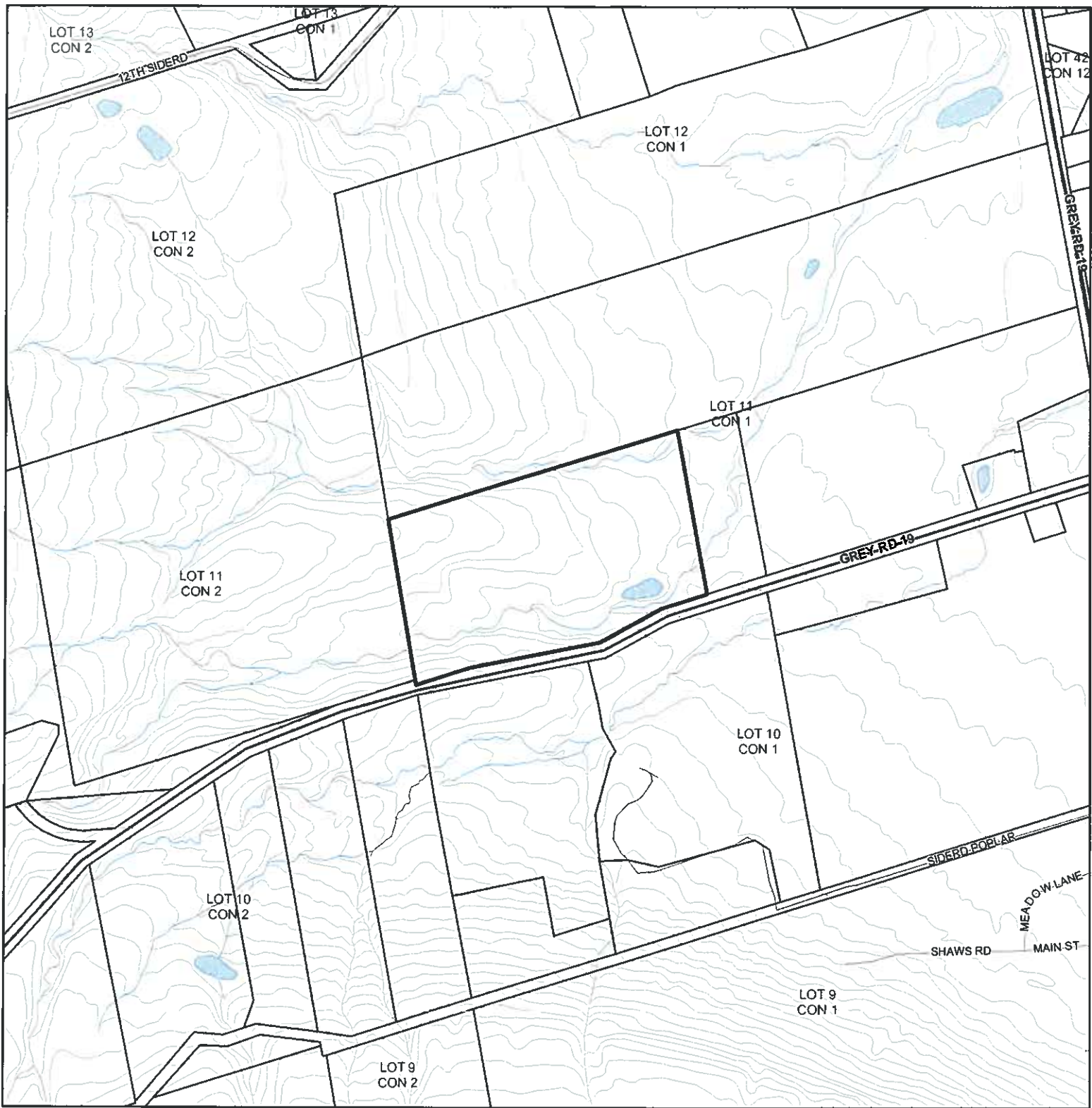
F. Attached

1. Lot Configuration
2. Site Plan

Respectfully submitted,

Bryan Pearce, HBA, CPT
Planner I
32 Mill Street, PO Box 310
Thornbury, ON N0H 2P0
Phone: 519-599-3131 ext.269
Fax: 519-599-3018
bpearce@thebluemountains.ca

David Finbow
Director of Planning & Building Services Department
32 Mil Street, PO Box 310
Thornbury, ON N0H 2P0
Phone: 519-599-3131 ext.246
Fax: 519-599-3018
dfinbow@thebluemountains.ca





MAP 2
LOT CONFIGURATION

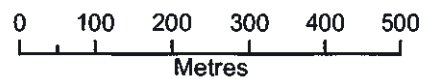
FILE NO. G/A/2011-2012/9080

APPLICANT: KIRALY

LEGEND

-  Subject Property
-  Contour (5 metre intervals)

Approximate Scale 1:10000





SITE PLAN

Equestrian Center

589901 Grey Road 19
Lot 11 Concession 1
Town of The Blue Mountains

18.19 ha
45 acres
Roll # 424200000207000
750m+ Frontage
315 m Depth

G/A/11-12/9080

PROCESSED ACCORDING TO THE PLAN'S USE IN THE PLAN AND CAN BE CONVERTED TO METRIC
DATE: 11/12/2011 DRAWN BY: DATE: 11/12/2011

DWG: 741-11-Existing

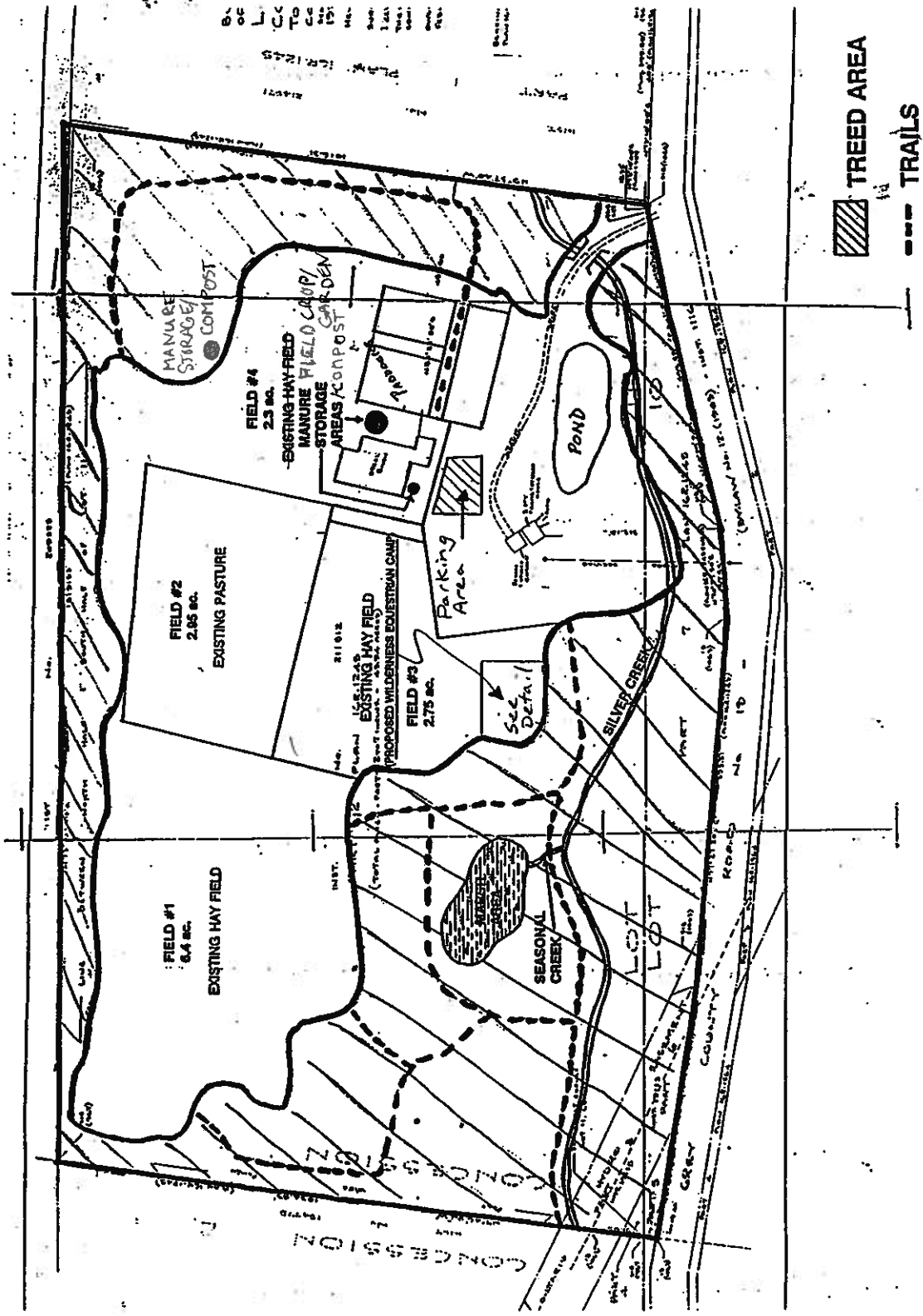


D.C. Slade Consultants INC.
Planning & Development
84 Hornshead Street, Cambridge, CA Phone: 051 444-4444



(PREVIOUS)
SITE PLAN

Including Trail Plan and Manure Management Plan



 TREED AREA
 TRAILS

X10

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