

## Addendum to Report PDR-PCD-01-15

**To:** Chair Wright and Members of Planning and Community Development Committee  
**From:** Scott Taylor, Senior Planner  
**Meeting Date:** September 15, 2015  
**Subject:** Kerbel Plan of Condominium 42-CDM-2008-11 Redline Revision  
**Status:**

### Recommendation(s)

**WHEREAS** the County has received a redline revision application to plan of condominium application 42-CDM-2008-11 for lands described as Lots 7 and 8, and Part of Lot 9, Concession 2, geographic Township of Euphrasia, Municipality of Grey Highlands;

**AND WHEREAS** Municipality of Grey Highlands Official Plan Amendment 18 has been approved by the County of Grey;

**AND WHEREAS** the corresponding Development Permit applications have been approved by the Niagara Escarpment Commission;

**AND WHEREAS** the County of Grey draft approved the initial plan of condominium application 42-CDM-2008-11 on December 16, 2014;

**NOW THEREFORE BE IT RESOLVED THAT** Addendum to Report PDR-PCD-01-15 be received;

**AND THAT** in consideration of the draft plan of condominium and the matters to have regard for under Subsection 51(24) of the Planning Act RSO 1990 as amended, the Grey County Planning and Community Development Committee hereby approves the redline revision to plan of condominium File 42-CDM-2008-11, subject to the revised conditions set out in the Notice of Decision;

### Background

The subject property has a significant history to it. In the late 1980's a Niagara Escarpment Plan Amendment (NEPA) was proposed to allow for multiple dwelling units to be permitted on the property in specific locations around the lake. On February 23, 1990, NEPA 19 was approved by an Order-In-Council to permit 8 dwelling units on the

subject lands. Although the NEPA approval has been in place for a number of years, the property has not been 'built-out' to the eight unit capacity.

In 2008 Dr. Jeffrey Kerbel, Diana Kerbel, Sharon Meyer and Howard Meyer came forward with an official plan amendment application to the Municipality of Grey Highlands Official Plan, and a corresponding plan of condominium application (42-CDM-2008-11) to the County of Grey, to permit an 8 unit plan of condominium on the subject lands. An official plan amendment to the County Official Plan was not needed as the County Plan generally defers to the detailed policies of the Municipal Official Plan and the Niagara Escarpment Plan for these lands.

The subject lands remain under development control through the Niagara Escarpment Commission (NEC), and as such corresponding development permit applications were also applied for at the NEC. The Commission approved a modified version of the development permit applications G/R/2013-2014/9015 on April 23, 2014, to permit up to 5 dwelling units on the subject lands. A note to the Commission's approval of the development permits also speaks to the Niagara Escarpment Plan being amended from the original 8 unit approval, to the new revised 5 unit approach.

Subsequent to the approval of the development permit applications, was the introduction of Niagara Escarpment Plan Amendment PG 203-14 to amend the provisions of NEPA 19 to only allow for five residential units on-site, rather than the previous eight unit approval.

The OPA to the Municipality of Grey Highlands Official Plan was approved by the County on November 12, 2014. Similar to the development permit applications the County's approval reflected the revised five unit approach.

The County draft approved the five unit plan of condominium on December 16, 2014. There were no appeals submitted on the draft approval. A link to the staff report recommending draft approval, including the conditions of approval, has been provided below.

[PDR-PCD-01-15 Kerbel Condominium and NEPA Report 42-CDM-2008-11](#)

Subsequent to the draft approval the County has now received a minor redline revision application. Copies of the materials related to the redline revision have been posted on the County's website at the below link:

[Link to Kerbel Redline Revision Materials](#)

The proposed changes to the draft plan were summarized by the applicant's planning consultant, Kathie Houghton, in the Planning Memo accompanying the application, as follows;

*"The proposed revisions are essentially described as;*

- a) *Enlarging Units 2 & 3 by extending the western boundary to the west so that they are adjacent to the internal road; and*
- b) *Enlarging Unit 3 by extending the southern boundary to the south to accommodate the sewage disposal system.*

*No change has been made to the eastern boundary (closest to the Lake) so setbacks to Duncan Lake are identical. The changes to Unit 3 will allow the septic system to be located to west of the proposed dwelling and much further from Duncan Lake. The minor enlargement will also provide a larger space outside the 30 m setback from Duncan Lake for buffer planting and landscaping around the proposed dwelling.”*

Surrounding the subject lands are a mixture of forested, farmed and residential lands (see map one below). The subject lands are approximately 200 hectares in size and completely encompass Duncan Lake. Sideroad 10D borders the subject lands to the north, while 3<sup>rd</sup> Line A borders the subject lands to the west.

The 5 dwelling units will gain access off of an internal condominium road which gains its access off of Sideroad 10D, with a secondary access off of 3<sup>rd</sup> Line A, both of which are municipally maintained roads. The subject lands are east of the Beaver Valley, roughly 4 kilometres northeast of Kimberley. Of the 5 total dwelling units being requested, two dwelling units already exist on-site. An existing private ‘ring-road’ around the lake exists currently on-site.

### *Map 1 – Air Photo of the Subject Property*



A public meeting was held for the official plan amendment and plan of condominium applications on May 3, 2010. No further public meeting was held for the redline revision based on the minor nature of the changes.

## *Public and Agency Comments Received*

As part of the redline revision planning application process, no comments were received by members of the public. Members of the public who had requested notice of decision or meetings on the initial plan of condominium application were circulated on the redline revision application.

Agency comments were received by the Niagara Escarpment Commission (NEC), the Grey Sauble Conservation Authority (GSCA) and the Municipality of Grey Highlands. The NEC noted that no further development permit applications were needed at this time, but that any further changes to the draft plan would necessitate new development permit applications. All three of these agencies expressed no further concern with the redline revision, and nor did they request any changes to the draft plan conditions.

## *Planning Policy Analysis*

Planning decisions in Ontario must have regard for matters of Provincial Interest under the *Planning Act*, be consistent with the Provincial Policy Statement (PPS) 2014, and conform to the goals and objectives of any official plans governing the lands. In this case the Niagara Escarpment Plan, the County of Grey Official Plan and the Municipality of Grey Highlands Official Plan are all applicable to the subject lands.

A detailed planning analysis was provided in County staff report PDR-PCD-01-15 on the initial plan of condominium application. That same planning analysis will not be repeated in this addendum report. The revised draft plan conditions have been attached to this report. The only condition that has changed from the County's initial draft approval has been condition number one, with respect to the date of the revised draft plan. Through the boundary changes of this redline revision, it will allow for an increased setback to Duncan lake, from Unit 3's septic system.

Based on the very minor nature of the changes being requested, and no concerns from the public or agencies, County staff remain of the opinion that the proposed redlined plan of condominium application, with the attached conditions of draft approval;

1. has regard for matters of Provincial interest under the *Planning Act*,
2. is consistent with the Provincial Policy Statement, and
3. conforms to the goals and objectives of the County of Grey Official Plan.

## **Financial / Staffing / Legal / Information Technology Considerations**

At this point there are no financial, staffing, legal or Information Technology considerations beyond those normally encountered in processing a plan of condominium application. The County has collected the requisite fee for the application.

Should the application be appealed to the Ontario Municipal Board (OMB) additional financial, legal, or staff resources may be required. However it should also be noted that

unless the County refuses the application, the County would not by default be a party to an OMB hearing on this matter, as per the County's OMB attendance policy. An appeal on the redline revision would appear unlikely, based on the minor nature of the changes, and the fact that no comments of concern have been received.

## Link to Strategic Goals / Priorities

Action 2.10, under Goal 2 of the County's Strategic Plan requires the continued management of growth and the application of sound land use planning principles. Through a lengthy review process of the initial condominium application, with a number of technical studies and a significant amount of public input, there were changes made to the application which better aligned it with the County's strategic goals. The current changes being made through the redline revision are very minor in nature, and will help better site a septic system. Subject to the conditions placed on the applications through the development permit applications and the attached draft plan conditions, the proposed development would appear to align with the above-noted goal.

## Attachments

Notice of Decision and Draft Conditions

Respectfully submitted by,

Scott Taylor, MCIP, RPP  
Senior Planner

Director Sign Off: *Randy Scherzer*

Applicant: Dr. Jeffrey Kerbel, Diana Kerbel, Sharon Meyer, and Howard Meyer File No.: 42-CDM-2008-11  
Municipality: Municipality of Grey Highlands  
Location: Lots 7 and 8, and Part of 9, Concession 2, (Geographic Township of Euphrasia)  
Date of Decision: Date of Notice:  
Last Date of Appeal:

## **NOTICE OF DECISION**

### **On Application for Approval of Draft Plan of Condominium**

### **under Subsection 51(45) of the Planning Act**

Draft Plan approval was given by the County of Grey on December 16, 2014. The County has rescinded the December 16, 2014 decision and a copy of the revised Decision is attached. Draft Plan Approval, is hereby given by the County of Grey for the application regarding the above noted lands. A copy of the Decision is attached.

#### **WHEN AND HOW TO FILE A NOTICE OF APPEAL**

Notice to appeal the decision to the Ontario Municipal Board must be filed with the County of Grey no later than 20 days from the date of this notice, as shown above.

The notice of appeal should be sent to the attention of the Director of Planning and Development of the County, at the address shown below and it must,

- (1) set out the reasons for the appeal, and
- (2) be accompanied by the fee prescribed under the Ontario Municipal Board Act.

#### **WHO CAN FILE A NOTICE OF APPEAL**

Only individuals, corporations or public bodies may appeal decisions in respect of applications for approval of draft plans of condominium to the Ontario Municipal Board. A Notice of Appeal may not be filed by an unincorporated association or group. However, a Notice of Appeal may be filed in the name of an individual who is a member of the association or group.

#### **RIGHT OF APPLICANT OR PUBLIC BODY TO APPEAL CONDITIONS**

The applicant or any public body may, at any time before the final plan of condominium is approved, appeal any of the conditions imposed by the County of Grey to the Ontario Municipal Board by filing with the Director of Planning and Development of the County, or her delegate, a Notice of Appeal.

#### **HOW TO RECEIVE NOTICE OF CHANGED CONDITIONS**

The conditions of an approval of draft plan of condominium may be changed at any time before the final approval is given.

You will be entitled to receive notice of any changes to the conditions of the approval of draft plan of condominium if you have either,

- (1) made a written request to be notified of the decision to give or refuse to give approval of draft plan of condominium, or
- (2) make a written request to be notified of changes to the conditions of approval of the draft plan of condominium.

#### **GETTING ADDITIONAL INFORMATION**

**Applicant:** Dr. Jeffrey Kerbel, Diana Kerbel, Sharon Meyer, and Howard Meyer **File No.:** 42-CDM-2008-11  
**Municipality:** Municipality of Grey Highlands  
**Location:** Lots 7 and 8, and Part of 9, Concession 2, (Geographic Township of Euphrasia)  
**Date of Decision:** **Date of Notice:**  
**Last Date of Appeal:**

Additional information about the application is available for public inspection during regular office hours in the Planning & Development Office at the address noted below or by calling 519-376-2205 or 1-800-567-GREY.

**ADDRESS FOR NOTICE OF APPEAL**

**County of Grey**  
**595-9th Avenue East**  
**OWEN SOUND, Ontario N4K 3E3**  
**Attention: Mr. Randy Scherzer, MCIP RPP**  
**Director of Planning & Development**

Plan of Condominium File No. 42-CDM-2008-11 has been granted draft approval. The County's conditions of final approval for registration of this draft plan of condominium are as follows:

---

No. Conditions

---

1. That this approval replaces the previous draft approval issued by the County of Grey dated December 16, 2014. All draft conditions from the 2014 draft approval have been deleted and replaced by the below conditions. That this approval applies to the draft Plan of Vacant Land Condominium File No. 42-CDM-2008-11, prepared by Rudy Mak, Ontario Land Surveyor, revision dated April 27, 2015 with a total of five (5) residential units, and common elements, including an internal road, on lands described as Lots 7 and 8, and the West Half of Lot 9, Concession 2 (geographic Township of Euphrasia) in the Municipality of Grey Highlands, County of Grey.
2. That the proposed internal road be named to the satisfaction of the Municipality of Grey Highlands.
3. As a requirement of development, the Owner will be responsible for entering into a Subdivision Agreement with the Municipality of Grey Highlands to satisfy all requirements, financial or otherwise of the Municipality.
4. That the Subdivision Agreement between the Owner and the Municipality of Grey Highlands shall be registered against the lands to which it applies prior to the registration of the Plan of Condominium. This shall be completed at the Owner's expense.
5. That the Owner shall convey 5% of the land and/or cash in lieu for Parkland Dedication purposes to the Municipality for parkland and/or trail purposes, to be negotiated.
6. That the Subdivision Agreement contain clauses recognizing that should human remains or other cultural heritage materials or features be discovered on-site that the requirements of the Ontario Heritage Act shall be adhered to.
7. That all easements and or agreements for drainage, gas line or utility purposes shall be dedicated to the appropriate authority or public authority. Should the relocation of any utilities be required as a result of this development, that all associated costs be at the Developer's expense.
8. That the construction and future maintenance including snow removal be confirmed to be adequate for emergency services and that a clause be



incorporated into the Subdivision Agreement, to the satisfaction of the Municipality.

9. That prior to final approval, the developer implements the recommendations contained in the Environmental Impact Study prepared by Azimuth Environmental Consulting dated March 2011 and amended January 2013 and that final lot design should indicate the size of the lots to be developed in order to determine if additional hydrogeological testing of the proposed wells will be required, that the individual wells for each building site be installed and tested for quality and quantity prior to the issuance of a Building Permit for the respective sites and that these recommendations and all recommendations of the report be incorporated into the Subdivision Agreement, to the satisfaction of the Municipality. Should changes to the lot sizes be required a red-line revision to the draft plan of condominium may be required. The lot sizes shall be in accordance with Niagara Escarpment Commission Development Permits G/R/2013-2014/9015-9019, or any subsequent successors thereto.
10. That the Subdivision Agreement includes provisions for the utilization of fully raised tertiary treatment system(s), with an add-on treatment unit to precipitate soluble phosphorous, meeting the Ontario Building Code tertiary effluent criteria, and that the sewage system(s) shall maintain a minimum 30 metre setback from the high water mark of Duncan Lake and the banks of any watercourse.
11. That wording be included in the Subdivision Agreement to ensure that the development envelopes for all structures, including septic systems, will maintain a minimum 30 metre setback from the lake and the riparian wetland features to the satisfaction of the Grey Sauble Conservation Authority.
12. That wording be included in the Subdivision Agreement to ensure that appropriate sediment and erosion control are utilized and maintained to ensure that no sediment and/or other deleterious materials enter Duncan Lake or any surrounding watercourse and/or water body to the satisfaction of the Grey Sauble Conservation Authority.
13. That property is within the area of Niagara Escarpment Development Control and therefore any development shall be undertaken in accordance with Development Permits G/R/2013-2014/9015-9019, or any subsequent successors thereto, to the satisfaction of the Niagara Escarpment Commission; or wording is incorporated into the Subdivision Agreement to the satisfaction of the Niagara Escarpment Commission, which addresses Development Permits G/R/2013-2014/9015-9019.
14. That prior to final approval the County is advised in writing by the Grey Sauble Conservation Authority how Conditions 11 to 12 have been satisfied.

Applicant: Dr. Jeffrey Kerbel, Diana Kerbel, Sharon Meyer, and Howard Meyer File No.: 42-CDM-2008-11  
Municipality: Municipality of Grey Highlands  
Location: Lots 7 and 8, and Part of 9, Concession 2, (Geographic Township of Euphrasia)  
Date of Decision: Date of Notice:  
Last Date of Appeal:

15. That prior to final approval the County is advised in writing by the Niagara Escarpment Commission how Condition number 13 has been satisfied.
16. That prior to final approval the County is advised in writing by the Municipality of Grey Highlands how Conditions 2 to 16 have been satisfied.
17. If final approval is not given to this plan within three years of the draft approval date, and no extensions have been granted, draft approval shall lapse under Subsection 51(32) of the Planning Act, RSO 1990, as amended. If the owner wishes to request an extension to draft approval, a written explanation together with the applicable application fee and a resolution from the local municipality must be received by the County of Grey Director of Planning, prior to the lapsing date. Please note that an updated review of the Plan and revisions to the conditions of approval may be necessary if an extension is to be granted.
18. That the owner, submit to the County of Grey with a computer disk containing a digitised copy of the Final Plan in a format acceptable to the County of Grey.

#### NOTES TO DRAFT APPROVAL

1. It is the applicant's responsibility to fulfil the conditions of draft approval and to ensure that the required clearance letters are forwarded by the appropriate agencies to the County of Grey, quoting the County file number.
2. An electrical distribution line operating at below 50,000 volts might be located within the area affected by this development or abutting this development. Section 186 - Proximity - of the Regulations for Construction Projects in the Occupational Health and Safety Act, requires that no object be brought closer than 3 metres (10 feet) to the energized conductor. It is proponent's responsibility to be aware, and to make all personnel on site aware, that all equipment and personnel must come no closer than the distance specified in the Act. They should also be aware that the electrical conductors can raise and lower without warning, depending on the electrical demand placed on the line. Warning signs should be posted on the wood poles supporting the conductors stating "**DANGER - Overhead Electrical Wires**" in all locations where personnel and construction vehicles might come in close proximity to the conductors.
3. Clearances are required from the following:  
Municipality of Grey Highlands  
206 Toronto Street South, Unit 1

**Applicant:** Dr. Jeffrey Kerbel, Diana Kerbel, Sharon Meyer, and Howard Meyer **File No.:** 42-CDM-2008-11  
**Municipality:** Municipality of Grey Highlands  
**Location:** Lots 7 and 8, and Part of 9, Concession 2, (Geographic Township of Euphrasia)  
**Date of Decision:** **Date of Notice:**  
**Last Date of Appeal:**

P.O. Box 409  
Markdale, ON, N0C 1H0

Grey Sauble Conservation Authority  
237897 Inglis Falls Road, R.R. #4  
Owen Sound, ON N4K 5N6

Niagara Escarpment Commission  
99 King Street East  
Thornbury, ON, N0H 2P0

4. We suggest you make yourself aware of the following subsections of the Land Titles Act:
  - a) subsection 144(1) requires all new plans to be registered in a Land Titles system if the land is situated in a land titles division; and
  - b) subsection 144(2) allows certain exceptions.

The condominium plan for Registration must be in conformity with the applicable Ontario Regulation under The Registry Act.

5. Inauguration or extension of a piped water supply, a sewage system or a storm drainage system, is subject to the approval of the Ministry of the Environment and Climate Change under the Ontario Water Resources Act, RSO 1990, as amended.
6. All measurements in condominium final plans must be presented in metric units.
7. A portion of the subject lands are affected by Ontario Regulation 151/06: Development, Interference with Wetlands and Alteration to Shorelines and Watercourses regulation. As such permits are required from the Grey Sauble Conservation Authority prior to site alterations and/or construction within the affected area.
8. The final plan approved by the County must be registered within thirty (30) days or the County may withdraw its approval under subsection 51(32) of the Planning Act RSO 1990, as amended.