July 15, 2021

# A5: STAFF REPORT

## DEVELOPMENT PERMIT APPLICATION:

### S/A/2020-2021/469

REDACTED, Rainbow Waters Farm Inc.

2752 Concession 8 Nottawasaga S

Part Lot 11, Concession 9 S

Township of Clearview, County of Simcoe

## SUMMARY

### PROPOSAL:

An on-farm diversified use, “OFDU,” (agri-tourism and sale of value-added products) is proposed on a 40 ha (100 ac) existing lot where the applicant is planting lavender and roses. A new shed to process the crop and host visitors and a 50-car parking area is proposed to facilitate the OFDU.

### DESIGNATIONS:

Escarpment Protection Area and Ecarpment Natural Area

### ISSUE:

The property is not mapped as prime agricultural area and OFDUs are therefore not a permitted use in the Niagara Escarpment Plan (NEP); neighbouring property owners cite compatibility issues with agri-tourism component of OFDU

### RECOMMENDATION:

### Approval of the agricultural and home industry/occupation components of the proposal, but refusal of the OFDU aspects (i.e., parking, farm tours). Part 1.4.2.3 specifies that on-farm diversified uses are only permitted in prime agricultural areas in Escarpment Protection Area. The subject property is not in a prime agricultural area.

### REASONS:

OFDU is not a permitted use outside of prime agricultural areas in the Escarpment Protection Designation. However, the agricultural use is permitted, and the processing and sale of lavender are proposed at a scale that is consistent with a home business and roadside sale of agricultural products.

### RECEIVED:

12/11/2020 – DPA

25/06/2021 – Soil Survey

25/06/2021 – Traffic Opinion Letter

25/06/2021 – Revised Operations Brief

25/06/2021 – Planning Consultant’s letter

### SOURCE:

REDACTED, Rainbow Waters Farm Inc.

### PROPOSAL:

The following development and change in use are proposed on a 40 ha (100 ac) existing lot:

• Establish a lavender and rose cultivation farm and on-farm diversified use;

• Allow paying visitors to visit the farm on a limited basis (9 am to 6 pm, June, July and August), to tour, observe processing and purchase products produced with the farm’s crops in a retail outlet (beverage sale limited to lavender-scented lemonade and bottled water);

• Employ 4 full-time and a dozen seasonal employees;

• Repair/renovate the existing ± 325.5 m² (± 3,500 ft²) agricultural shed to be used to store equipment and crops in support of the agricultural use;

• Construct a ± 1350 m² (± 14,486 ft²) visitor parking area to be surfaced with gravel, with capacity for 50 cars;

• Construct a single storey 130 m² (1400 ft²) visitor/processing shed to support the OFDU;

• Regrade and widen the existing driveway and surface with gravel;

• Secure existing barn foundation remains as a landscape feature.

### BACKGROUND:

#### Related Files:

**S/F/2020-2021/297** – Conditional approval was given to replace an existing level farm crossing with a culvert crossing over Leys Burn Creek. Condition #10 requires submission of a Final Site Plan detailing the sediment and erosion control measures prior to issuance of a Development Permit. Final site plans have not been received. The conditional approval expires December 4, 2021.

**S/R/2019-2020/9141** – A Development Permit Application was submittedto construct a three-storey single dwelling built into the hillside with a green roof and walkout design, measuring ± 410 sq m (4,413 sq ft) and having a maximum height of ± 12 m (40 ft); to install a private sewage disposal system and new well; and to extend an existing driveway on a 40.5 ha (100 ac) existing lot.Comments were received from BTC, MECP, NVCA and NEC Landscape Architect. The application is in abeyance. Further information has been requested regarding the building siting and grading before visual and landform impacts can be assessed.

**S/F/2019-2020/9122** – A Development Permit application was submitted proposing alterations to an existing pond historically used for livestock watering. The application was withdrawn by the applicant.

**S/D/2019-2020/9121** – Development Permit #9375 was issued to permit the demolition of the existing dilapidated dwelling on the subject lot. The dwelling has been demolished and the site is clear of waste material.

## SITE DESCRIPTION:

The subject property is located on the west side of Concession 8, below the brow of the Escarpment, between the hamlets of Glen Huron and Dunedin. The lot slopes north-easterly in a tiered fashion from a high point in the west at the Escarpment brow. The main Bruce Trail follows the brow. The steeply sloped forested portion is designated Escarpment Natural Area and is considered candidate significant woodland. A tributary of Leys Burn Creek arises from the steep secondary mid Escarpment slope and forms a valley feature through the centre of the lot. The land rises again before dropping to the roadway. There is a distinctive kame moraine feature in the northeast corner that rises 20 m in a conical shape.

## PROPOSED DEVELOPMENT:

A change in use to allow an on-farm diversified use (OFDU) is proposed. A parking area and a new shed is proposed to be constructed in support of the OFDU.

## PLANNING ANALYSIS:

### Niagara Escarpment Plan (NEP) 2017:

The property is designated **Escarpment** **Protection Area** and **Escarpment Natural Area** by the NEP. The applicant proposes to grow lavender and roses; to process the oils from these plants, and invite visitors to tour the fields, observe processing and purchase products produced with the farm’s crops in a retail outlet on the property.

Agricultural uses are permitted within the Escarpment Protection Area subject to satisfying the applicable Development Criteria in Part 2 of the NEP. New agricultural uses are not permitted or proposed in the portion of the property designated as Escarpment Natural Area.

**Agricultural use** is defined in the NEP as: “The growing of crops, including nursery, biomass, and **horticultural crops** [*bold added*]; raising of livestock, raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and **associated on-farm buildings and structures** [*bold added*], including, but not limited to livestock facilities, manure storages, value-retaining facilities, and accommodation for full-time labour when the size and nature of the operation requires additional employment (Provincial Policy Statement, 2014).

The applicant proposes to have guests attend the farm and for a fee tour the fields, observe processing, and purchase products produced from the farm’s crops. The agri-tourism and uses that produce value-added agricultural products are considered On-farm Diversified Uses (OFDUs).

**Agri-tourism use** is defined in the NEP as a farm-related tourism use, including limited accommodation such as a bed and breakfast, that promotes the enjoyment, education or activities related to the farm operation.

**On-farm diversified use** is defined in the NEP as a use that is secondary to the principal agriculture use and is limited in area. On-farm diversified uses include, but are not limited to, home occupations, home industries, agri-tourism uses, and uses that produce value-added agricultural products.

A Development Permit is required for the establishment of an on-farm diversified use (OFDU) such as the proposed agri-tourism use and the construction of parking areas and structures to facilitate this use.

Within the **Escarpment Protection Area** designation, agriculture-related uses and on-farm diversified uses, **in prime agricultural areas** [*bold added*], are listed among the permitted uses, subject to satisfying the applicable Development Criteria in Part 2 of the NEP. This requirement is specific to and intentionally more restrictive in the Escarpment Protection Area. Agricultural-related uses and on-farm diversified uses are permitted in the Escarpment Rural Area designations of the NEP without the requirement to be within a prime agricultural area.

**Prime agricultural area** is defined in the NEP as “an area where prime agricultural lands predominate. This includes areas of prime agricultural lands and associated Canada Land Inventory Class 4 through 7 lands, and additional areas where there is a local concentration of farms that exhibit characteristics of ongoing agriculture. Prime agricultural areas may be defined by Ontario Ministry of Agriculture and Food using guidelines developed by the Province as amended from time to time. A prime agricultural area may also be defined through an alternative agricultural evaluation system approved by the Province (PPS 2014).”

The subject property contains fields that under previous ownership produced hay and pasture for cattle. The applicant has begun to plant lavender this field season. The lot is within an area where there is a local concentration of farms that exhibits characteristics of ongoing agriculture. Many lots in the immediate area are owned and occupied by non-farmers, where the agricultural land portions of these properties are generally rented by bona fide farmers for agricultural purposes.

The Canada Land Inventory (CLI) mapping classifies the soil capability for agriculture on the property as Class 7T, which is the lowest on the scale but still included in the definition of prime agricultural area if it is found within or in proximity to prime agricultural lands (i.e., Classes 1 through 3 soils). Class 7 is described as having no capability for arable culture or permanent pasture and the T subclass references limitations related to steep topography. Both the percent of slope and the pattern or frequency of slopes in different directions affect the cost of farming and the uniformity of growth and maturity of crops as well as the hazard of erosion. According to the CLI description, land given a capability classification of 6 or 7 will never warrant irrigation since the benefits derived from irrigation would be negligible.

The Agricultural Land Base mapping for the Greater Golden Horseshoe Area identifies Prime Agricultural Areas and Candidate Prime Agricultural Areas in Simcoe County. The mapping identifies lands to the west, above the Escarpment brow, as prime agricultural area but the subject lot is not included.

Where mapping is available NEC staff have relied on the recent mapping of prime agricultural areas prepared for the Growth Plan within the Greater Golden Horseshoe to determine if a property is within a prime agricultural area. Simcoe County, Clearview Township is included within the Growth Plan. Simcoe County does not include the Niagara Escarpment Plan Area within their agricultural area mapping in the current Official Plan. They are in the process of updating mapping of prime agricultural areas.

The applicant hired Stantec Consulting Ltd. to complete a soil survey of the property. The detailed soil information showed a higher capability for agriculture than the CLI regional mapping. Approximately 64 percent of the property was determined to be Class 1 to 3 and the report pointed to evidence of grain production and row cropping on adjacent lands that suggest the local area should be classified as a prime agricultural area. However, prime agricultural areas are not identified on an ad hoc basis, and must be done in a manner consistent with OMAFRA’s [*Implementation Procedures for the Agricultural System in Ontario’s Greater Golden Horseshoe*](http://www.omafra.gov.on.ca/english/landuse/imp2019.pdf):

Within the Greenbelt area, the provincial agricultural land base mapping of prime agricultural areas was in effect as soon as it was issued by the Province on February 9, 2018. **Land use planning decisions made after that date need to conform to provincial mapping.**

The County of Simcoe is currently undertaking a municipal comprehensive review and is refining the provincial agricultural land base mapping as part of this process, but this process is not yet complete. It is noted in the *Implementation Procedures* that municipal refinements of the agricultural land base mapping must be approved by the Minister of Municipal Affairs and Housing.[[1]](#footnote-1) Therefore, the NEC does not have the ability to determine if land should or should not be included in a prime agricultural area. For this reason, the subject lands are not, at this time, within an identified prime agricultural area, and OFDUs are not a permitted use.

Although the subject property does not qualify for an OFDU, it is notable that the processing and sale of farm products is still permitted on the property, provided that it is done at a scale that is consistent with the NEP policies for home occupations and industries. Home occupations and industries are listed separately from OFDUs in the list of permitted uses in Escarpment Protection Area (Part 1.4.3.14) and are not limited to prime agricultural areas. Agri-tourism uses are included in the definition of OFDU and are not separated out as being widely permitted in Escarpment Protection Area. Thus, it is staff’s conclusion that agri-tourism, as an OFDU is not a permitted use in Escarpment Protection Area, unless it is also a prime agricultural area.

NEC staff reviewed the proposal with respect to the relevant Development Criteria.

#### General 2.2

NVCA maps a regulated area on the property associated with the flood and erosion prone areas of Leys Burn Creek. The existing agricultural building and proposed development of the parking areas and shed are outside of the regulated area and potential hazard prone area in compliance with Part 2.2.2. The improvements to the existing driveway (widening, grading, resurfacing) may require a permit or clearance from the NVCA. (See Map of the NVCA Regulated area)

As noted above, home occupations and industries are permitted, and the applicable development criteria are listed in Part 2.2.10 of the NEP. Where the home occupation or home industry is located in an accessory facility, not more than 100 square metres of the building shall be devoted to the use. The size of the proposed shed, at 130 square metres, exceeds this size, but when combined with the exemption for seasonal farm produce stands (Section 5.11 in Ontario Regulation 828/90), an additional 28 square metres could be permitted, for a total of 128 square metres or 1,378 square feet, the approximate size of the proposed shed. Home industries shall be secondary to the agricultural use on the lot, operated by residents of the household; and located in a manner that considers land use compatibility issues and must satisfy municipal official plan policies and standards (e.g. lot size, parking, floor area, retail space). The parking area should be further scaled down to accommodate employees and shop visitors

#### Water Resources 2.6

Key hydrologic features (KHF) on the lot include the tributary of Leys Burn Creek and unevaluated wetland pockets associated with the tributary. Leys Burn Creek flows through the property from south to north. Development of the shed and parking area proposed in this application maintains a 200 m setback from the watercourse and is outside of the NVCA regulated area.

The preliminary site plan shows a broad valley area to remain natural, a future dwelling site in 2022 and phased planting of lavender over two years. NEC staff recommends that a vegetation protection zone (VPZ) be maintained along the watercourse to protect the KHF from impacts associated with cultivated crop lands and that the VPZ be formally mapped in any approved final site plan. Appropriate sediment and erosion control measures should be implemented, and the details and location specified on the final grading/site plan.

Development Affecting Water Resources Part 2.6 can be satisfied through Conditions of Approval.

#### Natural Heritage 2.7

Key natural heritage features on the property include candidate significant woodland, unevaluated wetland, fish habitat and habitat of a threatened species (Bobolink).

The significant woodlands are within the area designated as Escarpment Natural Area in the western portion of the lot. Development and site alteration will have no impact on this natural heritage feature. No tree removal is proposed.

The unevaluated wetland is an area of organic soils associated with the watercourse. Proposed development is adequately setback from this natural heritage feature.

Fish habitat is not identified within the reach of the tributary on the property, but the key hydrologic feature connects with surface water downstream that does provide fish habitat. The proposed shed and parking area are setback 200 m from the watercourse. Appropriate sediment and erosion control measures will prevent negative impacts on the watercourse and fish habitat. (Condition #8)

The Natural Heritage Information Centre lists an element occurrence of Bobolink (Threatened) within the 1km grid that includes the property. There is currently hay grown on the property that may provide suitable habitat for this grassland bird species at risk. The applicant is intending to plant approximately 13.5 ha (32 ac) of the property in lavender, therefore suitable habitat for Bobolink remains but will be reduced in the future. Timing of cultivation and transition to an alternative crop should avoid the breeding bird season and comply with regulations under the Endangered Species Act. (Part 2.7.8) (Condition #7)

Best agricultural management practices are encouraged to protect and/or restore key natural heritage features and functions. (Part 2.7.9)

Natural heritage features are avoided, and development is proposed outside of 120 m adjacent lands. Incidental impacts can be minimized through conditions of approval to establish a VPZ, implement timing restrictions to avoid the breeding bird season, and sediment and erosion control measures. Natural heritage features and functions are protected, and the diversity and connectivity of the continuous natural environment is maintained in accordance with Part 2.7.

#### Agriculture 2.8

The objective of Part 2.8 of the NEP is to encourage *agricultural uses* in agricultural areas, especially in *prime agricultural areas*, to permit uses that are compatible with farming and to encourage *accessory uses* that directly support continued *agricultural uses*.

On-Farm Diversified Uses are intended to enable farm operators to diversify and supplement their farm income, as well as to accommodate value-added and agri-tourism uses in prime agricultural areas.

Since the farm is not located in a prime agricultural area, on-farm diversified uses are not permitted, and therefore the criteria for OFDUs found in Part 2.8 cannot be applied.

It is evident from the numerous emails NEC staff received expressing objection to the agri-tourism component of the proposal that neighbouring property owners do not consider the proposed OFDU to be compatible. Many of the surrounding properties can be described as estate residential uses with agricultural lands rented to farm operators. They have chosen this peaceful rural area to leave the urban area and associated traffic and population density behind. They value the larger lot sizes/less dense development and the natural features associated with the Niagara Escarpment. The thought of attracting visitors from the surrounding local region and GTA to the nearby farm property and increasing the volume of traffic on the winding, rolling Concession 8 is not perceived as compatible with these established residential uses.

This concern may be compounded by the current COVID-19 influences. During the pandemic the province has experienced increased pressures on natural areas and other green spaces offering outdoor activities. Protected areas have become “hot spots” through increased exposure on social media with associated issues of overcrowding, traffic congestion, litter and trespass. The neighbours are aware of other lavender farms and sunflower growers in the province who have experienced high volumes of visitors and trespass/privacy issues such as Terre Bleue near Milton. The email concerns/objections are summarized in the attached summary of correspondence. (Appendix 3).

To address some of these objections and concerns the applicant revised his proposal by reducing the number of parking spaces from a 90-car parking area plus a separate staff parking area to a single parking area with a capacity for 50 cars. The traffic opinion letter is based on this smaller potential trip generation of 33 to 75 two-way trips during Saturday/Sunday peak hours in the summer months. The local road network does have the capacity to handle the proposed traffic generated by the agri-tourism use, if it were permitted by the NEP.

As set out above, the agri-tourism use is not permitted, and the scaling down of the parking area and elimination of the farm tours aspect of the proposal would make it consistent with a home occupation or industry, and would allay the traffic and mass visitation concerns expressed by local residents.

#### Cultural Heritage 2.10

The Bruce Trail follows the brow of the Escarpment along the western boundary of the property. The Bruce Trail Conservancy was circulated for comment and has no objection to the proposed development.

GIS mapping identifies several known archaeological sites on the properties to the south and northeast of the subject lot. No known archaeological sites are mapped on the subject property. The site proposed for development of a parking lot and shed is in an area previously disturbed and used as a former yarding area for cattle. Minor grading is required to establish the parking area and the gravel surface will not prevent future exploration. In situations where development is proposed in an area previously developed/disturbed it has been staff’s practice to include a cautionary note in the conditions of approval should any archaeological resources be uncovered during grading.

The cultural heritage resources will be conserved in accordance with Part 2.10.

**Scenic Resources and Landform Conservation 2.13**

Part 2.13.1 states that development shall ensure the protection of the scenic resources of the Escarpment. The lot slopes eastward from the high point of the Escarpment brow along the western boundary, through the creek valley toward a distinctive kame feature that rises 20 m higher than the development site in the northeast corner on Concession 8.

The property is within an area described as “Very Attractive” in the Landscape Evaluation Study.

Little grading or site disturbance is required to accommodate the proposal. A new shed is proposed to host visitors and produce value added products from the lavender and rose crop. The existing agricultural building will be used for crop and equipment storage. A parking area is proposed in a relatively level area adjacent the existing building. The Escarpment related landforms are maintained. The applicant proposes to retain what is described as box elders (approximately 5 feet high shrubs along north and west sides of the parking area) and the foundation of a former barn (east) to help screen vehicles using the parking lot. The lot slopes up abruptly from Concession 8 to a level area where the former house and barn yard were located. The parking area will not be visible from the road.

The scenic resources and Escarpment-related landforms are maintained in accordance with Part 2.13.

## County Official Plan:

The property is identified as within the Niagara Escarpment Plan Area by the County of Simcoe Official Plan (OP) and the policies of the NEP apply. The OP identifies the property as containing “Greenlands”, which corresponds to the Escarpment Natural Area designation in the NEP at this location. Prime agricultural areas are not identified within the Niagara Escarpment Plan area in the OP.

## Local Official Plan:

The property is identified as within the NEP by the Township of Clearview Official Plan.

The property is designated as Escarpment Protection and Escarpment Natural Area under the Township of Clearview Official Plan.

## Provincial Policy Statement (PPS):

Section 1.1.5.2 of the PPS notes that agricultural uses, agricultural related uses, on-farm diversified uses, in accordance with provincial standards, are permitted on rural lands in municipalities. Therefore, the proposed OFDU appears to be consistent with the PPS. However, Part III of the PPS addresses the relationship between the PPS and provincial plans, including the NEP. This section states that provincial plans (including the NEP) take precedence over the policies of the PPS to the extent of any conflict. Thus, the NEP’s policy limiting OFDUs to prime agricultural areas in the Escarpment Protection Area designation is consistent with the PPS in that it takes precedence over the PPS policy that allows for OFDUs more broadly.

## AGENCY CONSULTATIONS:

1. **Bruce Trail Conservancy** has no objection to the proposed development.
2. **Nottawasaga Valley Conservation Authority** did not comment. [The proposed development of the parking areas, and shed construction, is outside of the area regulated by the NVCA. The proposed pond has been removed from the application.]
3. **Simcoe County Planning Department** did not comment.NEC staff clarified with Simcoe County that they are in the process of mapping prime agricultural areas. Current OP does not map prime agricultural areas within the Niagara Escarpment Plan area.
4. **Township of Clearview Planning Department** has no objection to the proposed construction provided a building permit is obtained from the municipality and a permit from the NVCA, if required.

## DISCUSSION:

Agricultural uses are a permitted use. A Development Permit is not required prior to planting an agricultural crop within an existing agricultural area. A horticultural crop such as lavender is included in the definition of agricultural uses.

The applicant has demonstrated through site-specific soil survey that the property contains soils with a greater capability for agriculture than the Canada Land Inventory mapped. While the argument could be made that it should be considered for inclusion in a prime agricultural area, this has to be done in accordance with the process laid out in the *Implementation Procedures*, and must be approved by the Minister of Municipal Affairs and Housing. It is not up to consultants or the NEC to determine if land should be in a prime agricultural area

Since the subject property does not lie within a prime agricultural area, the agri-tourism/OFDU components of the proposal are being recommended for refusal. However, the processing shed is at a scale that is generally consistent with a home business or industry and can be permitted along with a scaled-down parking area.

## RECOMMENDATIONS:

1. That the parking lot and farm tours aspect of the proposal be refused because on-farm diversified uses (i.e., agri-tourism) are not permitted uses outside of prime agricultural areas in Escarpment Protection Area;
2. That subject to the attached conditions, the following be approved:

* Repair/renovate the existing ± 325.5 m² (± 3,500 ft²) agricultural shed to be used to store equipment and crops in support of the agricultural use;
* Construct a single storey 130 m² (1400 ft²) shed to support processing and product sales;
* Regrade and widen the existing driveway and surface with gravel;
* Secure existing barn foundation remains as a landscape feature.

The application should be **approved** subject to the Conditions listed on the attached Appendix.

## Prepared by:

Original signed by:

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Judy Rhodes-Munk

Senior Planner

## Approved by:

Original signed by:

**\_\_\_\_\_\_\_\_\_**

Kim Peters, MCIP, RPP

Manager (A)

Appendix 1 – Conditions of Approval

Appendix 2 – Maps, Soil Survey, Traffic Opinion Letter, Revised Operations Brief, Planning Consultant’s letter

Appendix 3 – Summary of Objections

## APPENDIX 1

### CONDITIONS OF APPROVAL

### S/A/2020-2021/469

1. Development shall occur in accordance with the Site Plan, Development Permit and Conditions as approved.
2. The Development Permit shall expire three years from its date of issuance unless the development has been completed in accordance with the Development Permit.
3. The landowner shall advise the Niagara Escarpment Commission in writing of the start and the completion date of the development. This notice shall be provided to the NEC 48 hours prior to the commencement of development, and within 14 days upon completion.
4. No site alteration of the existing contours of the property including the placement or stockpiling of fill on the property is permitted with the exception of that identified within the development envelope in accordance with the approved Site Plan.
5. No vegetation shall be cut or removed from the development envelope except for that identified within the development envelope in accordance with the approved Site Plan.
6. All disturbed areas shall be re-vegetated and stabilized, in accordance with the approved Site Plan, by the end of the first growing season following the completion of site grading and building construction. All trees, shrubs and nursery stock shall be native to Ontario. Only in extenuating circumstances will non-native species be considered. Native plant material should be sourced from local plant nurseries when available; bush dug plant material is not acceptable.
7. Site alteration shall not occur between April 1 and August 31 inclusive, of any given year, within the breeding season of the species at risk e.g. Bobolink to ensure protection of breeding habitat.
8. **Prior to the commencement of any development**, appropriate erosion/sediment control measures shall be implemented and maintained as shown on the approved Site Plan (Condition #1) until all disturbed areas are stabilized. The landowner shall confirm the installation of the erosion/sediment control measures through the submission of photographs to the Niagara Escarpment Commission. It is the responsibility of the landowner to implement, monitor and maintain all erosion/sedimentation control structures until vegetative cover has been successfully established. Any deficiencies shall be addressed immediately.
9. **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 Plan shall include but not be limited to the following:
10. Reconfiguration of the proposed parking lot so that it is at a scale that only accommodates customers and farm employees (i.e., maximum 20 cars)
11. 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 denote the relevant consultant;
12. An accurate delineation of the approved development envelope with temporary fencing;
13. The accurate location of all structures, sewage disposal system and driveway within the development envelope showing setbacks from the property lines, watercourse, top/bottom of slope, wooded areas, etc.;
14. Extent of all disturbed areas;
15. Grading and drainage design including the areas of excavation and temporary or permanent fill placement;
16. Erosion and sediment control measures;
17. Surveyed location and inventory of vegetation to be preserved and removed as well as all protection measures.

The approved Final Site Plan shall form the Site Plan referred to in Condition #1 and 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 **Final Construction Details** of the shed to be used for product processing and sales, including exterior elevations, floor area, height above existing and proposed grades, and the number of stories shall be submitted for Niagara Escarpment Commission approval. The approved Details will be stamped “NEC Approved” and shall form part of the Development Permit referred to in Condition # 1.  Development shall proceed in accordance with the approved Final Construction Details.
2. This conditional approval expires 18 months from the date of confirmation of the decision to approve the Development Permit application. Conditions # 9 and 10 of this conditional approval shall be fulfilled before the expiry date.

**Notes:**

1. This Conditional Approval does not limit the need for or the requirements of any other applicable approval, licence or certificate under any statute (e.g., Ontario Building Code, Conservation Authorities Act, Endangered Species Act, etc.). The Niagara Escarpment Commission Development Permit is required prior to the issuance of any other applicable approval, licence or certificate.
2. The Niagara Escarpment Commission supports the protection of the night sky from excessive exterior lighting and recommends that the applicant obtain information on shielding the night sky through the use and operation of appropriate lighting fixtures. This information is available at [www.darksky.org](http://www.darksky.org)
3. Although an archaeological assessment is not required, the proponent is cautioned that during development activities, should archaeological materials be found on the property, the Ontario Ministry of Tourism and Culture and Sport should be notified immediately (416-212-8886 or archaeology@ontario.ca). In the event that human remains are encountered during construction, the proponent should immediately contact the appropriate authorities (police or coroner) and all soil disturbance must stop to allow the authorities to investigate and the Registrar of Cemeteries to be consulted.

## Appendix 2 documents available in separate PDF file.

## Appendix 3 - Summary of Objections Re: S/A/2020-2021/469

Issues/concerns received from neighboring property owners and interested parties include:

1. Commercial tourist operation; destination tourist attraction rather than agricultural operation.
2. Traffic – increase; safety concerns; stress on infrastructure; dangerous driveway entrance and hilly quiet road; traffic study? Consider impacts on Dunedin and Glen Huron?
3. Water supply – irrigation requirements; pond to be used for irrigation? Well to be used for processing and as source of lavender-scented lemonade product for sale? Water supply is tenuous in area especially during drought conditions.
4. Scale/scope of the proposed land use; visitor volume; capacity of parking lots, 4 full-time employees and 12 seasonal plus delivery trucks; buses? Actively advertising on social media.
5. Hours of operation everyday 9-6 June to September.
6. View NEP area as “protected land” and do not see this as ancillary to farm; not in keeping with overall NEC mandate.
7. Instagram inspired flocking for photos.
8. Privacy rights; safety/security/overflow of visitors; potential property damage.
9. Selling environment for personal profit; admission fee to attraction.
10. Change in quality of peaceful rural neighbourhood; departure from current use.
11. Not organic; use of pesticides/chemicals?
12. Noise; handling of waste.
13. Cited media coverage of similar operations with negative impacts – Lavender Farm and Sunflower farm near Milton.
14. Is a dwelling still proposed on the property as per the notice posted? [We have application S/R/2019-2020/9141 listed as “in abeyance” waiting for information from applicant’s architect.]

1. This is set out in O. Reg. 525/97 of the Planning Act. Within the GGH, any official plan

   amendment to designate, amend or revoke a prime agricultural area must come to the

   minister of Municipal Affairs and Housing for approval. [↑](#footnote-ref-1)