



Planning Advisory Committee Report

To: To the Chair and Members of the Planning Advisory Committee
From: Brandon Hassan, Senior Policy Planner
Date: November 7, 2017
Subject: PA-17-51 (Kikielka)
Zoning By-law Amendment Application ZBA34/17/BH
138 Cockshutt Road
Purpose: **Information Report** on an Application to Amend the County of Brant Zoning By-law 61-16 i.e. change the zoning from Agricultural (A) to Rural Residential (RR)

Recommendation

That Application ZBA34/17/BH from J.H. Cohoon Engineering LTD, on behalf of Bozena Kikielka, Owner of BRANTFORD PT LEFFERTY TRACT RP 2R-7266 PARTS 1 7 TO 9 11 AND 13, geographic FORMER TOWNSHIP OF BRANTFORD, County of Brant, and located at 138 Cockshutt Road, proposing to rezone a portion of the subject lands from Agricultural (A) to Rural Residential (RR) in order to recognize the existing residential land uses, **be received as information.**

Key Strategic Priority

Undertaking actions that elevate customer service to those we serve.

Financial Considerations

None

Executive Summary

The purpose of this report is to provide the Committee and Public with information from the Applicants and Staff regarding the details of an application to amend the County of Brant Zoning By-law 61-16.

This application proposes to change the zoning on a portion of the subject lands from Agricultural (A) to Rural Residential (RR) in order to recognize the existing residential land uses and facilitate the creation of one (1) new residential lot.

The planning analysis will focus on literature reviews of applicable policy (i.e. *Planning Act*, Provincial Policy Statement, Official Plan, and Zoning By-law), consultation with departments, an inspection of the subject lands/surrounding neighborhood and discussions with both the Applicant/Agent and Public.

This report is to be received for information purposes, after allowing for feedback from both Committee and members of the Public.

Proposal

The Applicant is proposing to rezone the subject lands from Agricultural (A) to Rural Residential (RR) in order to recognize the existing residential land uses.

Concurrent Consent Applications have also been submitted in order to sever the property creating one new residential lot and a laneway access via River Road to the retained lands.

Report

Planning Act R.S.O 1990

Section 51(24) and 34(10) (see attached) of the *Planning Act* provides policy direction to be considered when reviewing Consent and Zoning By-law Amendment Applications.

Growth Plan for the Greater Golden Horseshoe 2017

Policy 2.2.9.3 deals with rural residential development (see attached).

This area is located to the east of the Second Settlement Area of Mount Pleasant.

Provincial Policy Statement 2014

Section 1.1.3.1 of the PPS deals with Settlement Areas and is described in the Definitions Section 6.0 (see attached).

County of Brant Official Plan 2012

The lands are designated as Agricultural, Natural Heritage and Rural Residential in the County of Brant Official Plan. Sections 2.2.3.3 and 3.7 (see attached) set out the policies in the Official Plan for the Rural Residential designation.

Zoning By-law 61-16

The subject lands are currently zoned Agricultural (A) and Natural Heritage (NH). The Applicants are proposing to change the zoning on the subject lands in order to recognize the existing residential land uses and facilitate a severance to create one (1) new residential lot.

The proposed severed lot will have a frontage of approximately 34 m and an area of approximately 0.78 hectares. The retained lands will be approximately 7.7 hectares in size.

Interdepartmental Considerations

The application has been circulated to the following departments and agencies for comments. Their comments will be included in a future staff report to the Committee for consideration.

- Building Division
- Zoning Administrator
- Economic Development
- Community Services
- Treasury Division
- Legal Division
- Development Engineering Division
- Fire Department
- Grand River Conservation Authority
- Forestry
- Energy + Inc
- Bell
- Union Gas
- Brant Heritage Committee
- Canada Post
- Six Nation/New Credit

Public Considerations

None received.

Summary and Next Steps

The proposal is to amend the Zoning By-law to rezone a portion of the property from Agricultural (A) to Rural Residential (RR) in order to recognize the existing residential land uses and facilitate the creation of one new residential lot. The proposed severed lot will have a frontage of approximately 34 m along River Road and 145 m along Cockshutt Road and an area of approximately 0.78 hectares. The retained lands will have an area of approximately 7.7 hectares.

The 2,300 m² portion of land that is proposed to be rezoned is currently designated Agricultural as per Schedule A of the County Official Plan (OP). However, the former County OP identified this parcel being designated as Estate Residential. Due to an oversight in a previous Consent Application (B2/10/SS) when the current OP Mapping was being prepared in 2012, the designation was removed and changed to follow proposed property lines.

Therefore, it is acknowledged that this mapping error can be interpreted by Council as per Section 7.0 of the OP without the need for an Official Plan Amendment Application. There are no additional lots being created or alterations aside from what has been previously approved which could cause negative impacts to the neighboring residential properties.

The purpose of this report is to provide the Committee and the public with information concerning the Application to amend the Zoning By-law 61-16. Staff will investigate whether the proposed land use is being directed to an appropriate area and is consistent with the policies of the Official Plan and Provincial Policy Statement.

The merits of this planning application will be determined by the Planning Advisory Committee at a later date. The date to consider the Committee Recommendation Report has not been scheduled at this time.

Respectfully submitted,



Brandon F. Hassan, Senior Policy Planner

Attachments

1. Aerial Photo
2. Official Plan Map
3. Legislative Excerpts

Copy to

1. Rob Trotter, Director of Planning
2. Heather Boyd, Clerk/Manager of Council Committee Services
3. Jennifer Mayhew, Planning Clerk
4. Mark Pomponi, General Manager of Development Services
5. Applicant/Agent

File # ZBA34/17/BH

In adopting this report, is a bylaw or agreement required?

If so, it should be referenced in the recommendation section.

By-law required (No)

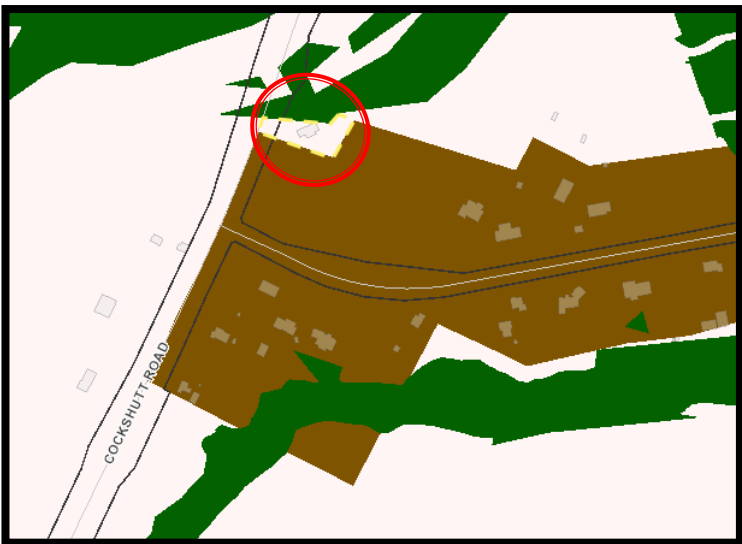
Agreement(s) or other documents to be signed by Mayor and /or Clerk (No)

Is the necessary by-law or agreement being sent concurrently to Council? (No)

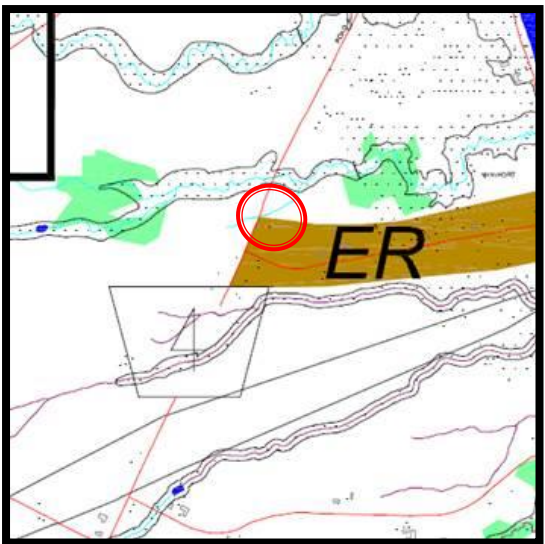
Aerial Photo



CURRENT Official Plan Map



FORMER Official Plan Map



Legislative Excerpts

Planning Act R.S.O.1990 Chapter P.13

“area of settlement” means an area of land designated in an official plan for urban uses including urban areas, urban policy areas, towns, villages, hamlets, rural clusters, rural settlement areas, urban systems, rural service centres or future urban use areas, or as otherwise prescribed by regulation; (“zone de peuplement”)

Section 34(10) states that:

(10) Despite any other provision of this section, any by-law passed under this section or a predecessor of this section may be amended so as to permit the extension or enlargement of any land, building or structure used for any purpose prohibited by the by-law if such land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day such by-law was passed. R.S.O. 1990, c. P.13, s. 34 (10).

Growth Plan for the Greater Golden Horseshoe 2017

Policy 2.2.9.3 states that:

new multiple lots and units for residential development will be directed to settlement areas, and may be allowed in rural areas in site-specific locations with approved zoning or designation that permits this type of development in a municipal official plan, as of the effective date of this Plan.

Provincial Policy Statement 2014

Section 1.1.3.1 of the PPS states that:

“Settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted”.

Section 1.1.3.2 of the PPS states:

“Land use patterns within settlement area shall be based on:

- a) densities and a mix of land uses which:*
 - 1. efficiently use land and resources;*
 - 2. are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion; and*
 - 3. minimize negative impacts to air quality and climate change, and promote energy efficiency in accordance with policy 1.8; and*
- b) a range of uses and opportunities for intensification and redevelopment in accordance with the criteria in policy 1.1.3.3.*

Section 1.1.3.3 of the PPS states:

“Planning Authorities shall identify and promote opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.”

“Intensification and redevelopment shall be directed in accordance with the policies of Section 2: Wise Use and Management of Resources and Section 3: Protecting Public Health and Safety.”

Section 1.1.3.7 of the PPS states:

“New development taking place in designated growth areas should occur adjacent to the existing built-up area and shall have a compact form, mix of uses and densities that allow for the efficient use of land, infrastructure and public service facilities.”

Settlement Areas are described in the PPS in Section 6.0 as:

Urban areas and rural settlement areas within municipalities (such as cities, towns, villages and hamlets) that are:

- a) built up areas where development is concentrated and which have a mix of land uses; and*
- b) lands which have been designated in an official plan for development over the long term planning horizon provided for in policy 1.1.2. In cases where land in designated growth areas is not available, the settlement area may be no larger than the area where development is concentrated.*

County of Brant Official Plan (2012)

2.2.3.3 Rural Residential Areas

The County's Rural Residential Areas are existing areas of large lot residential developments that are designated Rural Residential by this Plan. Existing Rural Residential Areas have been identified based on their role as residential areas outside of the Urban Settlement Areas, Hamlets and Villages, and within the agricultural community. These areas do not have access to County water or sanitary sewage systems.

It is anticipated that the County's Rural Residential Areas will not accommodate significant additional growth and development during the course of the planning horizon. Development shall be limited to infilling on existing lots of record or new draft plans of subdivision within the boundaries of the Rural Residential designation, as shown on Schedule A.

The County shall not permit the establishment of new Rural Residential Areas. The boundaries of existing Rural Residential areas shall not be permitted to expand.

The following policies shall apply to the County's Rural Residential Areas:

- a) Designation of a Rural Residential Area does not mean that the land is suitable for further development. A limited amount of growth and development may occur, subject to the following criteria:
 - i. the proposed development is subject to the policies of Section 3.7 of this Plan;
 - ii. the proposed development represents infill development or minor rounding out;
 - iii. the proposed development has access to potable water, and such supply does not adversely affect adjoining properties;

- iv. a servicing feasibility study has been completed in accordance with the Ministry of the Environment guidelines which demonstrates that the proposal's impact on ground and surface water shall be within acceptable limits;
 - v. the proposed servicing shall be appropriate for the proposed densities and land uses;
 - vi. the pattern of new development shall be logical in the context of existing development;
 - vii. the proposed development complies with the Minimum Distance Separation Formulae;
 - viii. the proposed development is compatible with existing development; and
 - ix. each lot proposed shall include a comprehensive drainage and lot grading plan demonstrating no adverse impacts on surrounding properties and a satisfactory outlet for stormwater.
- b) Development shall be consistent with and guided by the Servicing System policies in Section 5.2 of this Plan.

Development shall be limited to large lot residential development, in accordance with the Rural Residential designation in Section 3.7 of this Plan. Proposed lots shall be of a size similar to existing lots.

3.7 RURAL RESIDENTIAL

3.7.1 INTENT

The primary intent of the Rural Residential designation is to only recognize existing concentrations of large lot residential development in order to prevent scattered land consumption, inefficient use of existing infrastructure, and non-farm development in the Agriculture designation.

3.7.2 PERMITTED USES

Subject to the applicable strategies, as set out in Section 2.0, and other policies of this Plan, the following policies shall apply in determining uses that are permitted on land that is designated Rural Residential:

- a) Single detached residential dwellings shall be permitted in the Rural Residential designation.
- b) An accessory residential dwelling unit shall also be permitted in the Rural Residential designation, in accordance with Section 2.4.5 of this Plan.
- c) Bed and breakfast establishments shall be permitted in the Rural Residential designation.

3.7.3 LAND USE POLICIES

The following policies apply to land designated Rural Residential:

- a) Designation of a Rural Residential area does not mean that the land is suitable for further development. A limited amount of growth and development may occur within Rural Residential areas subject to the following criteria:
 - i. the proposed development represents an infill development within an existing Rural Residential area;
 - ii. the proposed development has access to potable water, and such supply does not adversely affect adjoining properties;

- iii. it has been demonstrated to the satisfaction of the County that on-site servicing is feasible;
 - iv. the proposed servicing shall be appropriate for the proposed densities and land uses;
 - v. the pattern of new development shall be logical in the context of the existing development within the Rural Residential area;
 - vi. the proposed development is compatible with existing development; and
 - vii. each lot proposed shall have provided a comprehensive drainage and lot grading plan demonstrating no adverse impacts on surrounding properties and a satisfactory outlet for stormwater.
- b) Development in the County's Rural Residential areas shall be consistent with and guided by the Servicing System policies in Section 5.2 of this Plan.
 - c) Within the Rural Residential designation, the maximum density for new development shall not exceed 3 units per net hectare.
 - d) Building permits shall be refused within areas designated Rural Residential if adequate servicing cannot be provided.
 - e) Where the number of units warrant, development may be required to supply a reservoir of water of sufficient volume to ensure adequate fire protection and a hydrogeology report on the adequacy of potable water.
 - f) Lots created within this designation must be consistent with the size and nature of surrounding lots while being consistent with the minimum size and frontage requirements of the Zoning By-law.

6.8.2.2 Residential Consents

The following shall be the policies of the County with respect to residential lot creation, through consent, in accordance with the policies of the applicable land use designation as established in Section 3.0:

- a) The division of land shall only be granted when the retained and severed parcels abut a public road of a standard of construction and maintenance acceptable to the County of Brant (and the Ontario Ministry of Transportation, where applicable) and safe and suitable access is available.
- b) The division of land shall not be granted where access to the retained or severed parcels could result in a traffic hazard because of limited sight lines on curves or grades or proximity to intersections. Access may also be restricted and/or prohibited to an Arterial Road and Provincial Highways if required to ensure safe traffic movement. It may be a condition of consent that a service road be constructed at the sole expense of the applicant to the satisfaction of the County.
- c) The division of land shall only be granted when it has been established that soil and drainage conditions for the retained and severed parcels are suitable:
 - i. to permit the proper sitting of a building;
 - ii. to obtain a sufficient and potable water supply if a County water supply is not available; and/or

iii. to permit the installation of an adequate means of sewage disposal. In areas where no piped County services are available and the installation of a septic tank system or other private sewage disposal system is therefore required, the standards established by the Ministry of the Environment and/or its designated agent shall be met.

d) Further to policy c) above, the following studies may also be required:

- i. lot grading and drainage plan;
- ii. hydrogeology study;
- iii. geotechnical study;
- iv. archaeological study;
- v. Environmental Impact Statement; and/or
- vi. other studies as deemed appropriate by the County.

e) The division of land shall only be granted if the retained and severed parcels comply with the provisions of the County Zoning By-law.

f) The division of land shall not be granted if development will occur on land subject to severe flooding, wetlands, severe erosion or unstable conditions or any other physical limitations as determined by the County of Brant in consultation with the appropriate Conservation Authority, unless adequate mitigation measures are approved by the County and the Conservation Authority having jurisdiction.

g) Notwithstanding any other section of this Plan, consents for the creation of easements or rights-of-way are permitted and minor lot adjustments or minor boundary changes are permitted provided they are granted conditional to Section 50(3) or 50(5) of the *Planning Act*, and the consent would not result in the creation of a new building lot.

h) The consent-granting authority may exercise its powers under Section 53(2) of the *Planning Act* when reviewing the shape, or size of any proposed lot.