



Planning Advisory Committee Report

To: To the Chair and Members of the Planning Advisory Committee
From: Dan Namisniak, Planner, Sec-Treasurer - Committee of Adjustment
Date: March 5, 2019
Subject: PA-19-12 (Illett Farms Ltd)
Zoning By-law Amendment Application ZBA6/19/DN
239 Highway #5, St. George, County of Brant
Purpose: **Recommendation Report** for an Application to amend Zoning By-law 61-16 from Agricultural (A) to Agricultural (A-9) & modification to a portion of the Agricultural Employment (AE-22) zone to satisfy conditions of Consent Application B1-19-DN.

Recommendation

That Application ZBA2/19/DN from Armstrong Management, agent for Ross Illett Farms Ltd., c/o Ross Illett, applicant of CON 3 PT LOT 9 Geographic Former Township of South Dumfries, County of Brant, is proposing to rezone the portion of the subject lands outside of the St. George Settlement Area from Agricultural (A) to Agricultural (A-9) to prohibit a dwelling as a permitted use & to modify the zoning boundary of the existing Agricultural Employment (AE-22) to satisfy conditions of consent application B1/19/DN, **BE APPROVED**.

Key Strategic Priority

Undertaking actions that elevate customer service to those we serve.

Financial Considerations

None

Executive Summary / Proposal

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 the following:

- To rezone the portion of the subject lands outside of the St. George Settlement Area from Agricultural (A) to Agricultural (A-9) to prohibit a dwelling as a permitted use.
- To modify the zoning boundary of the existing Agricultural Employment (AE-22) zone to form a boundary between proposed surplus dwelling lot #1 as conditionally approved as part of consent application B1/19/DN.

The proposed rezoning is required in order to satisfy conditions of consent application B1/19/DN.

The planning analysis focuses on literature review of applicable policy (i.e. Planning Act, PPS, Official Plan and Zoning By-law), consultation with departments, an inspection of the subject lands and discussions with both the agent/public.

Planning analysis as outlined in this report indicates that the proposal is in conformity with Growth Plan, Provincial Policy Statement, County of Brant Official Plan, maintains the general intent of Zoning By-law 61-16. Staff are of the opinion that the proposal represents good planning and are recommending approval of the application.

Location

The subject lands are located on north side of Highway #5, adjacent to Industrial Boulevard, within the Former Township of South Dumfries.

The surrounding area consists of low density single family dwellings along Highway #5, Industrial uses within the St. George Industrial Area to the south and Agricultural uses north of the subject lands.

The subject lands currently have a frontage of 500 metres, depth of 980 metres and area of approximately 49.8ha (123 acres).

The subject lands currently contain two (2) existing dwellings, structures associated with a feed mill operation and a majority of actively farmed land to the rear.

The subject lands are currently serviced by private water, sanitary and storm water infrastructure.

Background & Related Applications

Application B1-19 & B2-19 was granted conditional approval by the Committee of Adjustment at the February 21, 2019 meeting.

The consent application requested to sever two (2) surplus farm dwellings. The dwellings are considered surplus by the purchaser of the farm land (Empire (St. George) Ltd as a result of consolidation or acquisition of lands in addition to their existing farm land holdings.

Application *B1-19-DN* proposes to establish the existing dwelling located at 239 Highway #5 on a parcel of land to be retained by Illett Farms Ltd having a frontage of 40 metres, depth of 131 metres and area of approximately 0.7 hectares (1.73 acres).

Application *B2-19-DN* proposes to establish the existing dwelling located at 241 Highway #5 on a parcel of land to be retained by Illett Farms Ltd having a frontage of 72 metres, depth of 73 metres and area of approximately 0.4 hectares (1 acre).

The remnant farm parcel is to be transferred to Empire (St. George) Ltd and will maintain a frontage of 387 metres, depth of 978 metres and area of approximately 48 hectares (118 acres). 17.7 hectares (43.7 acres) of this land falls within the St. George Settlement Area and are proposed to be developed as part of the Empire Communities Subdivision.

Report

Planning Act R.S.O (1990)

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

Section 51(24) of the Planning Act sets out criteria to be considered when reviewing consent applications (see attached).

The application is in keeping with Section 34(10) & Section 51(24) of The Planning Act.

Consistency and/or Conformity with Provincial and/or Municipal Policies/Plans

Provincial Policy Statement (2014)

Section 2.3.4.1.a. of the PPS permits the severance of a residence surplus to a farming operation as a result of farm consolidation, provided that: (see attached).

1. The new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and
 2. The planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective
- *The dwellings are considered surplus by the purchaser of the farm land (Empire (St. George) Ltd as a result of consolidation or acquisition of lands in addition to their existing farm land holdings.*
 - *The lot established for the surplus dwelling is limited to the minimum size needed to accommodate the use and appropriate sewage and water services and the remnant farm parcel outside of the settlement area is required to be rezoned to prohibit additional residential development.*

It is Planning Staff's opinion that the proposal complies with the policies in the PPS.

County of Brant Official Plan (2012)

The west portion of the subject lands are designated on Schedule 'A' Land Use Plan of the CBOP as Agricultural. Section 6.8.2.1(c)(iv) of the CBOP provides direction when dealing with surplus farm operations (see attached).

- *The lots to be established for non-farm use are large enough to accommodate the use and on-site servicing while ensuring that as little acreage as possible is taken out of productive agricultural land.*
- *The remnant farm parcel outside of the settlement area is required to be rezoned to prohibit additional residential development.*

The east portion of the subject lands fall within the St. George Settlement Area are designated on Schedule 'A' Land Use Plan of the CBOP as Urban Residential. These lands have an area of 17.7 hectares (43.7 acres) and are proposed to be developed as part of the Empire Communities Subdivision.

It is Planning Staff's opinion that the requested severance complies with the policies in the CBOP.

Zoning By-law 61-16 (2016)

The subject lands are zoned Agricultural (A) in the adopted By-Law 61-16. As such, the proposal complies with provision 4.29 - Reduced Lot Frontage for Surplus Farm Dwellings.

The subject lands also contain a portion of Agricultural Employment (AE-22) zoning which permits structures and uses associated with a commercial feed mill operation.

It is Planning Staff's opinion that the requested severance complies with the policies in the Zoning By-law.

Interdepartmental Considerations

Development Engineering Department: No objections.

Fire Department: No objections.

Lot Grading: No objections.

Zoning Administrator: No objections.

Building Division: No objections.

Civic Addressing: No objections.

Grand River Conservation Authority: No objections.

Hydro One: No objections.

The following departments/agencies did not provide any comments with regard to this application:

- Legal Division (Real Estate)
- Community Services
- Grand Erie District School Board
- Bell Canada
- Brant Heritage Committee
- Forestry
- Six Nation/New Credit
- Union Gas

Public Considerations

None Received

Conclusions and Recommendations

The subject lands currently contain two (2) existing dwellings on a parcel of farm land. A portion of the remnant farm parcel is located within the St. George Settlement Area. The application proposes to establish the dwellings located at 238 & 241 Highway #5 on separate lots to allow for individual conveyance of the dwellings and remnant farm land.

The dwellings are considered surplus by the purchaser of the farm land (Empire (St. George) Ltd) as a result of consolidation or acquisition of lands in addition to their existing farm land holdings.

The non-farm lots containing existing dwellings will be retained by the current owners (Illett Farms Ltd). The severed portion will be transferred to Empire (St. George) Ltd. consisting of 30.9 hectares (76.4 acres) of lands outside of the Settlement Area, designated Agricultural; and 17.7 hectares (43.7 acres) which are located within the Settlement area, designated Urban Residential.

The lots to be established for the surplus dwellings are limited to the minimum area needed to accommodate the use and appropriate sewage and water services. The portion of the remnant farm parcel that is located outside of the settlement area is required to be rezoned to prohibit additional residential development.

The Zoning By-law Amendment application is required to include a change in the current zoning of the rural agricultural lands outside of Settlement Area from "Agricultural (A)" to a "Special Exception Agricultural (A-9)" in order to prohibit a dwelling as a permitted use respecting the policies of the OP and the PPS. The rezoning application will also propose a minor adjustment to the boundary of the "AE-22" zone to "A" to remove site specific provisions from the non-farm portion being created as part of this consent application.

Detailed comments received from Building, Engineering, Zoning and Lot Grading have been considered and incorporated as part of conditions of the consent application.

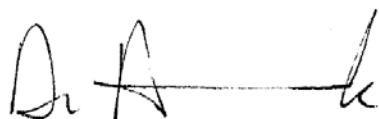
The portion of the subject lands west of the dwelling at 241 Highway #5 contains a watercourse feature regulated by the GRCA. Where possible, it is the GRCA's preference to maintain natural hazard or natural heritage features under single ownership and to avoid adding hazard lands to parcels that currently do not contain hazard lands. Through consultation with the GRCA, the proposed lot lines have been configured in a way that allows all hazard lands to remain with the farm unit.

Based on the analysis above, Staff can confirm that the appropriate measures have been taken to ensure that the rezoning and related severance is consistent with the Provincial Policy Statement and conform to the County of Brant Official Plan. None of the agencies and departments circulated raised any concerns.

It is the opinion of Staff that the Zoning By-law Amendment has merit and therefore, Staff is recommending approval of the application.

Therefore, Planning Staff is recommending approval, subject to the conditions attached to this report.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Dan Namisniak', with a long horizontal stroke extending to the right.

Dan Namisniak

Planner / Secretary-Treasurer, Committee of Adjustment

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 # ZBA6/19/DN

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

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

By-law required (Yes)

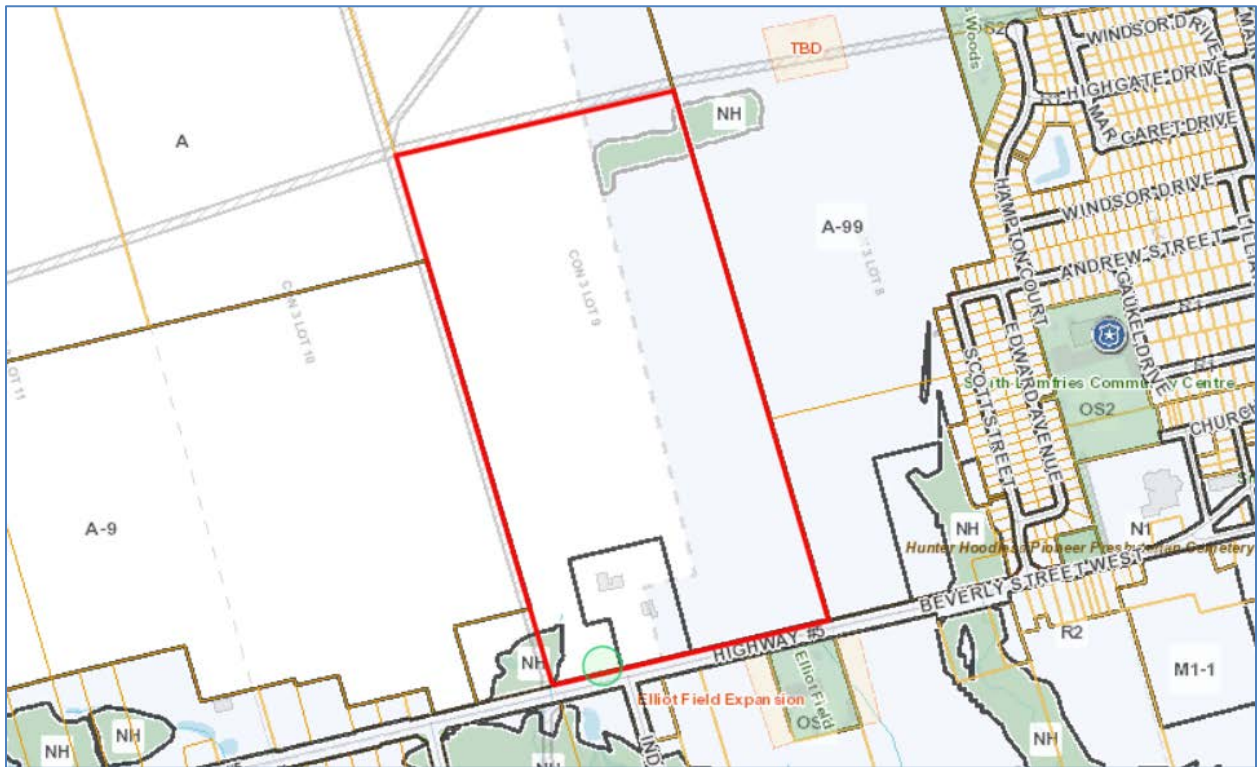
Agreement(s) or other documents to be signed by Mayor and /or Clerk (No)

Is the necessary by-law or agreement being sent concurrently to Council? (Yes)

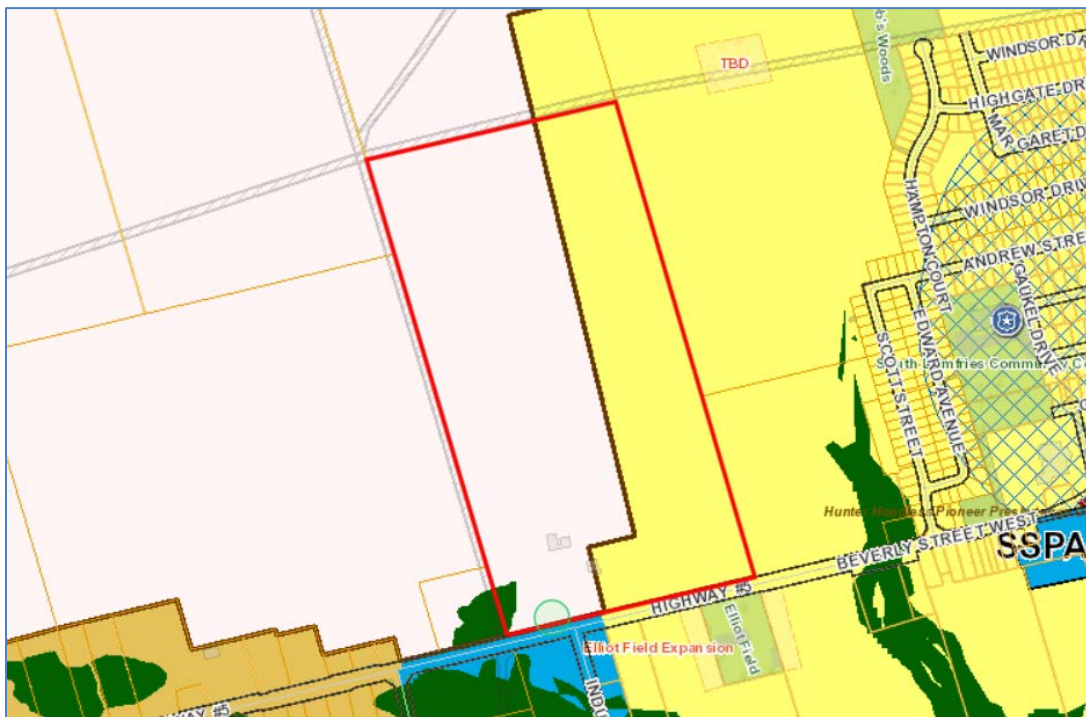
AERIAL PHOTO - Proposal



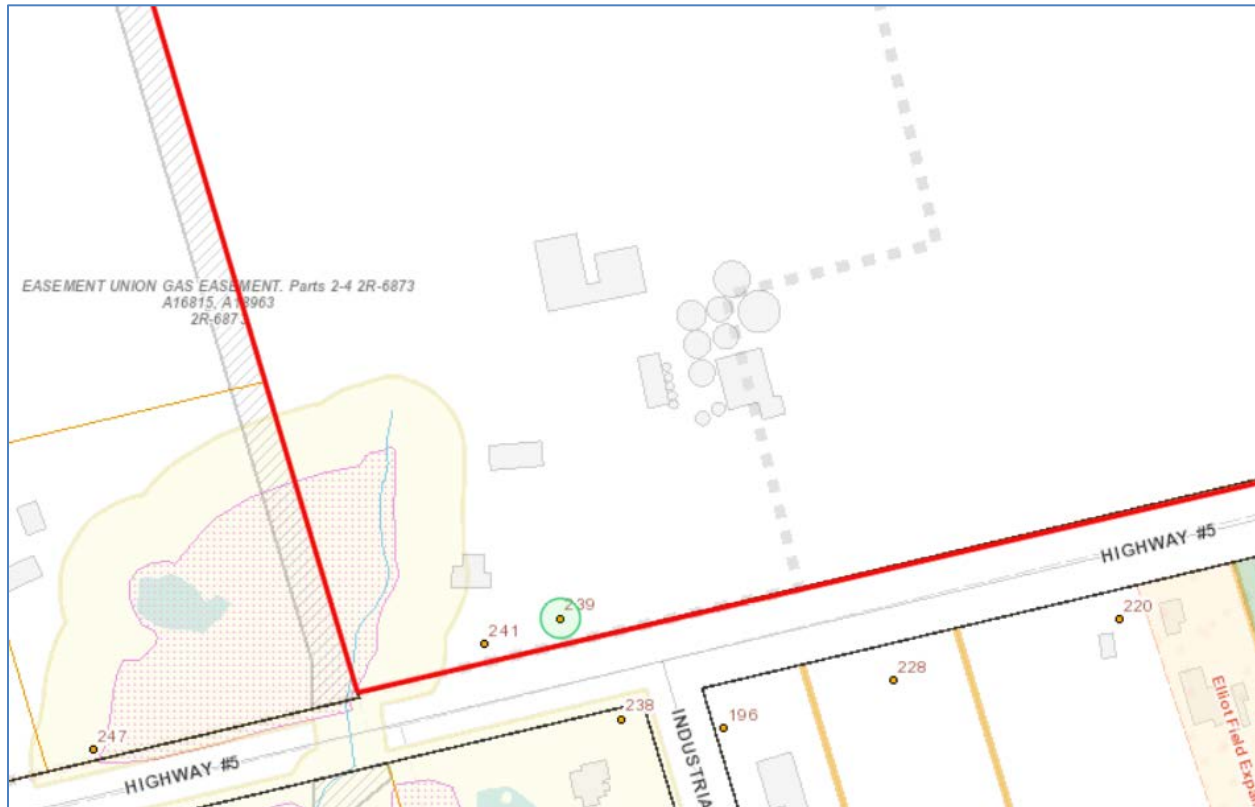
ZONING BY-LAW 61-16 – ‘Schedule A’ Zone Map



OFFICIAL PLAN MAP – ‘Schedule A’ Land Use Map



GRAND RIVER CONSERVATION AREA (GRCA) MAPPING



Legislative Excerpts

LEGISLATION EXCERPTS

PLANNING ACT R.S.O.1990

Criteria

(24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- (f) the dimensions and shapes of the proposed lots;
- (g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;

- (h) conservation of natural resources and flood control;
- (i) the adequacy of utilities and municipal services;
- (j) the adequacy of school sites;
- (k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;
- (l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and
- (m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the *City of Toronto Act, 2006*. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4).

PROVINCIAL POLICY STATEMENT (2014)

2.3.4.1 Lot creation in prime agricultural areas is discouraged and may only be permitted for:

- a. agricultural uses, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations;
- b. agriculture-related uses, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services;
- c. a residence surplus to a farming operation as a result of farm consolidation, provided that:
 - 1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and
 - 2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective; and
- d. infrastructure, where the facility or corridor cannot be accommodated through the use of easements or rights-of-way.

COUNTY OF BRANT OFFICIAL PLAN (CBOP)

Section 6.8.2 - Consents

The following is the County's policy with respect to lot creation in the Agriculture and Non-Agriculture designations.

Section 6.8.2.1 - Agriculture Consents

- iv. Where previous or current farm consolidations have rendered a residence surplus to a farming operation, or where an established farm has more than one habitable dwelling which is considered surplus to the needs of the farm operation, a consent may be considered to sever the surplus farm dwelling from the farm unit, provided that, in addition to the general consent policies of this Plan, all of the following conditions are met:

1. The lot severed for non-farm use is large enough to accommodate the use and on-site servicing (i.e. subsurface sewage disposal and well) while ensuring that as little acreage as possible is taken out of productive agricultural land and shall generally be less than 0.6 hectares in size;
2. The Minimum Distance Separation Formulae can be met with the formulae applied as if the property was zoned or designated as a residential lot;
3. The lot severed, for the non-farm use, shall neither create nor add additional dwelling units; and
4. The remnant parcel of farmland created by the severance is rezoned to prohibit the future construction of a new dwelling.

ZONING BY-LAW 61-16

4.29 Reduced Lot Frontage for Surplus Farm Dwellings

Where a lot is created as the result of a consent granted by the Committee of Adjustment with respect to the disposal of a surplus farm dwelling and is located within an Agricultural (A) Zone and has a minimum 20.0 metre frontage then the said lot shall be deemed to comply to the requirements of this By-Law with respect to the lot area or lot frontage however, all other regulations of the By-Law shall apply.

SECTION 7: AGRICULTURAL EMPLOYMENT (AE) ZONE

77-08	AE-22	<p>Notwithstanding anything in this By-Law to the contrary, within any area <i>zoned</i> AE-22 on Schedule "A" hereto, the permitted <i>uses</i> shall be limited to:</p> <ul style="list-style-type: none"> a) a <i>feed mill</i>; b) a <i>grain elevator and drying facilities</i>; c) an <i>open storage use accessory</i> to the <i>feed mill</i> or grain elevator; d) a <i>retail store, wholesale establishment or business office accessory</i> to the permitted <i>uses</i>; e) a truck repair business, excluding an <i>auto body shop</i>, located within <i>buildings existing</i> as of March 1, 2008 and f) <i>accessory uses, buildings and structures accessory</i> to the foregoing <i>uses</i>. <p>All other requirements of the By-Law shall apply.</p>
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