



Planning and Development Committee Report

To: To the Chair and Members of the Planning and Development Committee
From: Ryan Cummins, Planner
Date: November 2, 2021
Subject: RPT-21-257- Zoning By-Law Amendment Application ZBA29/21/RC
12 Maple Avenue South, geographic Township of Burford
Purpose: For Approval

Recommendation

That Application ZBA29/21/RC from Charles Sawyer, Owner of lands described as Concession 14, Part Lot 3, in the geographic Township of Burford, known as 12 Maple Avenue South, County of Brant, proposing to rezone the subject lands from Agriculture (A) and Special Exception Agriculture (A-18) to Agriculture (A) and Special Exception Agriculture (A-180) to prohibit a dwelling and to recognize an undersized farm parcel of approximately 27.6 hectares (68.2 acres) in order to facilitate a surplus dwelling severance, **BE APPROVED**, subject to the following site specific provisions;

1. To prohibit a dwelling as a condition of approval of a surplus dwelling severance.
2. To permit an undersized farm parcel with an area of approximately 36.2 hectares (89.4 acres), whereas a minimum of 40 hectares (98.8 acres);

And that the reason(s) for approval are as follows:

- The application is consistent with the *Provincial Policy Statement* (2020).
- The application conforms to the policies of the Growth Plan for the Greater Golden Horseshoe (2020).
- The application is in conformity with the general intent of the policies of the County of Brant Official Plan (2012); and,
- The applicant maintains the intent of the County of Brant Zoning By-Law 61-16.

Key Strategic Priority

6. Sustainable and managed growth

Financial Considerations

None.

Executive Summary / Proposal

The purpose of this report is to provide Council and the 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.

The applicant is undertaking a rezoning application as a condition of approval of severance application B66-20-RC. The applicant sought a surplus dwelling severance to facilitate the sale of the farm land and for the current owner to retain the dwelling. This severance application was presented and approved by the Committee of Adjustment in April of 2021. As a condition of that consent, conditions pertaining to the re-zoning of the subject lands were required to be fulfilled.

The proposed rezoning application is proceeding straight to a recommendation report rather than having an information meeting as Staff have delegated authority on “A-9” re-zonings. This application has similar intent but the undersized farm parcel of approximately 27.6 hectares (68.2 acres) needed to be recognized through a site specific provision. Furthermore, the site-specific Agriculture (A-18) zoning on a portion of the severed and retained lands allows for an abattoir as a permitted use. It is therefore the intent of this application to recognize an undersized farm parcel, as well as to remove the permission for an abattoir on the subject lands. At Council’s direction, no additional cost was incurred by the applicant for the zoning relief required for the undersized farm parcel as a result of the surplus farm dwelling severance.

The planning analysis focuses on literature review of applicable policy (i.e. *Planning Act*, *Provincial Policy Statement* (2020), *Growth Plan for the Greater Golden Horseshoe* (2020), *Brant County Official Plan* (2012) and *Zoning By-Law 61-16*, consultation with departments and discussions with both the agent/public. As outlined in this report, Staff are of the opinion the proposal represents good planning and are recommending approval of the application.

Location

The subject lands are located on the east side of Maple Avenue South, north Norwich Road, within the Geographic Township of Burford. The surrounding lands mainly consist of farmed fields and associated agricultural structures, as well as single-detached residential uses.

The subject lands currently have a frontage of approximately 311.3 metres (1021.3 feet), a maximum depth of approximately 596.6 metres (1957.3 feet), and an area of approximately 27.9 hectares (69 acres).

The subject lands currently contain an existing single detached farm dwelling and 3 agricultural buildings. The subject lands are currently serviced by private water, sanitary and storm water infrastructure.

Report

Planning Act R.S.O (1990)

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

The proposal is in keeping with the policies of *Planning Act* as it meets the criteria for an amendment to the Zoning By-Law.

Provincial Policy Statement “PPS” (2020)

Section 2.3.4.1 of the PPS describes how the creation of lots 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

This policy contemplates for severances on lands identified as Agricultural subject a specific set of criteria. The proposed severance meets this policy as the minimum amount of land was severed to facilitate the surplus dwelling severance. Furthermore, the appropriate conditions of approval, such as this rezoning application, were included to ensure no new residential dwelling units were to be built on the retained lands.

Section 2.3.4.3 of the PPS describes show the creation of new residential lots in prime agricultural areas is not permitted except in accordance with policy 2.3.4.1(c).

The surplus dwelling severance satisfied this policy as while a new lot was being severed to formally separate the dwelling and the farmlands, no new residential building lots were being created. The new residential lot being created is occupied by the existing dwelling.

Section 6.0 includes the definition for “residence surplus to a farming operation”

- means an existing habitable farm residence that is rendered surplus as a result of farm consolidation (the acquisition of additional farm parcels to be operated as one farm operation).

The surplus dwelling severance application, which was approved by the Committee of Adjustment in April of 2021, satisfied this policy as the retained lands were being acquired by Komienki Fresh Produce Ltd., and are to be farmed as part of a larger farming operation.

It is my professional opinion that the proposal is consistent with the policies in the Provincial Policy Statement (2020) for the following reasons:

- ***The dwelling is considered surplus by the applicant through acquisition.***
- ***The proposed severance meets the definition for residence surplus to a farming operation as the applicants will continue to farm as one larger farming operation.***
- ***The lot established for the surplus dwelling is limited to the minimum size needed to accommodate appropriate sewage and water services. No actively farmed land has been removed to facilitate the severance.***

- ***The remnant farm parcel will be rezoned to prohibit a residential dwelling on the retained lands.***

Growth Plan for the Greater Golden Horseshoe (2020)

Section 2.2.1.2 (b) of the Growth Plan describes how growth will be limited on lands that are not serviced by existing or planned municipal water and wastewater system.

A new residential building lot is not being created by the proposed severance. The dwelling is existing and is being severed as surplus from the farmland.

Section 2.2.9.1 of the Growth Plan describes how Municipalities are encouraged to plan for a variety of cultural and economic opportunities within rural settlement areas to serve the needs of rural residents and area businesses.

The applicant was able to proceed with a surplus dwelling severance application as the farmlands were surplus to the applicant as a result of acquisition. The retained lands will continue to be farmed as part of a larger farming operation which will in turn contribute to the economic vitality of the County of Brant.

Section 4.2.6.4 of the Growth Plan describes how the geographic continuity of the agricultural land base and the functional and economic connections to the agri-food network will be maintained and enhanced.

To facilitate the surplus dwelling severance, only the minimum amount of land was severed to accommodate the existing dwelling and servicing. No actively farmed land was removed to facilitate the severance.

Section 4.2.6.5 of the Growth Plan speaks to the retention of existing lots of record for agricultural uses is encouraged, and the use of these lots for non-agricultural uses is discouraged.

Staff have included the appropriate conditions of approval to ensure no new residential building lots are being created through the surplus dwelling severance application. Staff also note the retained lands are being purchased by Komienki Fresh Produce Ltd. and will farmed as part of a larger farming operation.

It is my professional opinion that the proposal is in conformity with the policies in the Growth Plan for the Greater Golden Horseshoe (2020) for the following reasons:

- ***No new residential development is proposed for either the severed or retained lands. The retained lands are to be rezoned with a site specific provision prohibiting a dwelling.***
- ***The existing single detached dwelling is surplus to the applicant through the acquisition of additional farm land.***
- ***The subject lands will be farmed as part of a large farming operation.***
- ***The lands will continue to be farmed as it will be consolidated with the applicant's local farming operation.***

County of Brant Official Plan (2012)

The subject lands are designated Agricultural in the County of Brant Official Plan (OP).

Section 1.11.2.6.2(a) of the County of Brant Official Plan recognizes the agricultural industry as an important component of the County's economic base and as a contributor to the County's rural character.

To facilitate the surplus dwelling severance, no actively farmed land has been removed. The retained lands will continue to be farmed as part of a larger farming operation.

Section 1.11.2.6.2(b) of the County of Brant Official Plan speaks to protecting the County's prime agricultural area for long term agricultural purposes.

Through the conditions of approval, Staff have included the appropriate conditions to ensure no new residential building lots are being created. One of these conditions of approval include rezoning the retained lands to prohibit dwellings.

Section 1.11.2.6.2(c) of the County of Brant Official Plan speaks to protecting the right to farm based on normal farm practices.

The retained lands are being farmed as part of a larger farming operation and no actively farmed lands were removed to facilitate the surplus dwelling severance.

Section 1.11.2.6.2(e) of the County of Brant Official Plan restricts the creation of new residential lots and other non-farm development in the County's Agricultural areas.

No new residential buildings lots have been created. The existing dwelling was severed through a surplus dwelling severance.

Section 1.11.2.6.2(i) of the County of Brant Official Plan requires the development of urban and nonfarm-related land uses to the County's Primary and Secondary Urban Settlement Areas and Hamlets and Villages, or areas specifically intended for the proposed land use, in order to protect the long-term operation and economic role of agriculture.

The retained lands will continue to be farmed as part of a larger farming operation, with no nonfarm related land uses proposed.

Section 1.11.2.6.2(k) of the County of Brant Official Plan speaks to permitting farming operations that will help the County as a whole adjust to changing economic and technological conditions.

To facilitate the severance the minimum amount of land was severed. All actively farmed land will continue to be farmed as part of a larger farming operation.

Section 3.3.1(a) of the County of Brant Official Plan describes how the primary form and predominant use of land in the Agriculture designation shall include all types of farming and normal farm practices, including the growing of crops, the raising of livestock and other animals for food, fur, or fibre; associated on-farm buildings and structures, including accommodation for associated full-time farm labour as required based on the size and nature of the operation; agricultural research operations; uses connected with the conservation of water, soil, wildlife and other natural resources; and resource extraction and resource-based uses.

The lands will continue to be farmed through this consolidation with a large local farming operation.

3.3.1(c) of the County of Brant Official Plan describes how in general, one residential dwelling unit shall be permitted per lot on lands designated as Agriculture.

The existing dwelling was severed as the farmed lands, the retained lands, were surplus to the applicant as a result of acquisition.

3.3.2.1(a) of the County of Brant Official Plan speaks to Minimum Distance Separation (MDS) Formulae be used to establish appropriate standards for separating proposed uses from existing livestock facilities (MDS I) and for applying appropriate standards for the separation of new or expanding livestock facilities from existing adjacent uses (MDS II). The County Zoning

Bylaw shall establish separation distances between livestock operations (to be defined within the By-Law) and non-agricultural land uses in accordance with the Minimum Distance Separation Formulae.

The applicant has confirmed the subject lands does not have any livestock facilities. If any livestock facilities were to be constructed, they would be required to satisfy MDS.

Section 3.16.1 of the County of Brant Official Plan notes that the Natural Heritage policies are not intended to limit the ability of existing agricultural uses to continue.

The retained lands will continue to be farmed as part of a larger farming operation.

Section 6.8.2.1(a) of the County of Brant Official Plan speaks to consents for the diversion of land in the Agriculture designation being discouraged. No consent shall be allowed within the Agriculture designation which may have the effect of creating lots that are not primarily related to agriculture, or agriculture-related commercial/industrial, or as specified by this Plan.

As a result of acquisition, the existing dwelling was surplus to the applicant's need. The applicant was able to sever the existing dwelling from the farm land through a surplus dwelling severance application with conditions of approval that included rezoning the retained lands to prohibit a dwelling.

Section 6.8.2.1(c)(iv) of the County of Brant Official Plan speaks to when 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.

Through acquisition, the existing dwelling was surplus to the applicant's needs. Staff have included the appropriate conditions of approval and have ensured that only the minimum amount of land has been severed to accommodate the dwelling, servicing and existing accessory structures. No actively farmed land has been removed and the retained lands will be rezoned to prohibit any dwellings.

It is my professional opinion that the proposal conforms to the policies in the County of Brant Official Plan (2012) for the following reasons:

- ***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 no acreage is taken out of productive agricultural land.***
- ***The Minimum Distance Separation Formulae has been satisfied as there are no existing livestock facilities.***

- ***The lot severed, for the non-farm use, shall neither create nor add additional dwelling units; and***
- ***The remnant parcel of farmland created by the severance is rezoned to prohibit the future construction of a new dwelling.***

County of Brant Zoning By-Law 61-16

The subject lands are zoned Agricultural (A) and Special Exception Agricultural (A-18) within the County of Brant Zoning By-Law 61-16.

Section 6.1, Table 6.1 speaks to the permitted uses on lands zoned as Agriculture. Permitted uses include but are not limited to the following:

- Agricultural use
- Aviary
- Cannabis Production Facility
- Dwelling, Single Detached
- Farm Labour Housing
- Farm Production Outlet
- Forestry Uses excluding any establishments that either process forestry products or sell processed forestry products such as lumber mills;
- Farm Greenhouse;
- Livestock Facility; and,
- Shipping Container in accordance with Section 4.35.

Further, Section 6.5 of the Zoning By-Law outlines the following policies that apply to the Special Exception Agricultural (A-18) Zone:

“Notwithstanding any provisions of this By-Law to the contrary, within any area zoned A-18 on Schedule ‘A’ hereto, in addition to the uses permitted in the Agricultural (A) Zone, an abattoir shall also be permitted. All other requirements of the By-Law shall apply.”

Staff are recommending that through this Zoning By-Law Amendment to prohibit a dwelling, that the Special Exception permitting an abattoir also be removed from the severed lands. Currently, the entirety of the lands to be severed are zoned as Special Exception Agricultural (A-18). Staff is of the understanding that the applicant has no objections to re-zoning the severed lands to Agriculture (A), as the agricultural buildings on-site do not house livestock, nor are they used for the purpose of an abattoir.

Section 4.29 of the County of Brant Zoning By-Law permits a frontage of 20 metres on lands severed as a surplus dwelling and zoned Agriculture.

Section 6.2, Table 6.2 of the County of Brant Zoning By-Law speaks to the development requirements for lands zoned as Agriculture. See chart below for analysis of development standards.

Retained Lands

Development Standard	Required – All Other Uses	Requested – Retained Lands
Lot Area, Minimum (ha)	40ha	27.9ha – Subject lands were an existing undersized parcel
Lot Frontage, Minimum (m)	150m	260m
Street Setback, Minimum (m)	25m	128m (Approx.)
Interior Side Yard Setback, Minimum (m)	15m	45m (Approx.)
Rear Yard Setback, Minimum (m)	15m	400m (Approx.)

Severed Lands

Development Standard	Required – Dwelling	Requested – Severed Lands
Lot Area (Maximum)	0.6ha - Surplus Dwelling	0.38ha
Lot Frontage, Minimum (m)	20m – Surplus Dwelling	51.8m
Street Setback, Minimum (m)	10m	16m (Approx.)
Interior Side Yard Setback, Minimum (m)	4m	18m (Approx.)
Rear Yard Setback, Minimum (m)	10m	49m (Approx.)
Lot Coverage, Maximum	30%	7% (Approx.)

It is my professional opinion that the proposal maintains the intent of the County of Brant Zoning By-Law 16-61 for the following reasons:

- ***No new residential building lots will be created.***
- ***The severed surplus dwelling is maintaining the intent of the development standards for an agricultural dwelling as all provisions have been satisfied.***
- ***The retained lands will be rezoned to prohibit a residential dwelling on the retained lands.***
- ***The existing parcel was an undersized agricultural parcel and minimal land is being removed for the purpose of the surplus dwelling application.***

- ***Through the conditions of approval of the severance, Staff have included a condition requiring transfer documents to ensure the purchase and sale agreement has been executed.***

Interdepartmental Considerations

Development Engineering:

- No comments.

Development Engineering – Lot Grading:

- No objection or comments on the application at this time.

Fire:

- No objection.

Environmental Planning:

- No comment.

Canada Post:

- No comment.

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

- Building Division
- Hydro 1
- Union Gas
- Infrastructure Ontario
- Six Nation/New Credit

Public Considerations – to be mailed in later in October

15 notices were mailed on. October 15, 2021

At the time of writing this report, no public comments were received.

Conclusions and Recommendations

The purpose of this rezoning application is to rezone the subject lands from Agriculture (A) and Special Exception Agriculture (A-18) to Agriculture (A) and Special Exception Agriculture (A-180) to prohibit a dwelling and to recognize an undersized farm parcel of approximately 27.6 hectares (68.2 acres) in order to facilitate a surplus dwelling severance.

The subject lands are designated Agriculture within the County of Brant Official Plan (2012). The intent of the Agricultural designation is ensure that prime agricultural land and the agricultural activities and lifestyle of the County of Brant are protected and have the opportunity to flourish. The purpose of the County's land use policies for the Agriculture designation is to encourage and promote agricultural land for agricultural activities. Provincial policy requires that agricultural land be protected for agricultural uses unless appropriate justification is provided for alternative uses.

It is my opinion the proposed rezoning will remain aligned with the Official Plan as the retained lands will continue to be farmed as part of a larger farming operation. Staff have also included the appropriate conditions of approval to ensure that no new residential building lots are being created. These conditions include rezoning the retained lands to prohibit a dwelling, and to provide legal transfers demonstrating the purchase and sale agreement submitted with the consent application has been executed.

Staff note the retained lands are currently zoned as both Agricultural (A) and Special Exception Agricultural (A-18). The Committee of Adjustment approved the surplus farm severance, with a condition that required the subject lands be re-zoned for the following purposes:

1. To recognize an undersized farm parcel.
2. To prohibit a dwelling on the retained lands.
3. To remove the special exception zoning that currently permits an abattoir.

Staff is recommending that the entirety of the retained farm parcel be re-zoned to Special Exception Agricultural (A-180), which will recognize the undersized farm parcel and prohibit the construction of a dwelling. Staff is further recommending that the severed surplus lot be re-zoned to Agricultural (A).

Through the circulation of the application, no concerns were raised with the application by any comment agency.

Based on the analysis above, Staff can confirm that the appropriate measures have been taken to ensure that the proposed rezoning is consistent with the *Provincial Policy Statement*, in conformity with the Growth Plan for the Greater Golden Horseshoe, conforms to the County of Brant Official Plan and meets the intent of the County of Brant Zoning By-Law.

It is my opinion that the Zoning By-Law Amendment has merit and therefore, I am recommending approval of the application.

Attachments

1. Zoning Figure
2. Official Plan Figure
3. Aerial Figure
4. Draft By-Law

Copy to

1. Pam Duesling, General Manager of Development Services
2. Mat Vaughan, Director of Planning
3. Heather Boyd, Clerk/Manager of Council Committee Services
4. Alyssa Seitz, Planning Clerk
5. Applicant/Agent

File # ZBA29/21/RC**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)