



Planning and Development Committee Report

To: To the Chair and Members of Planning and Development Committee
From: Kayla DeLeye, Senior Planner
Date: January 4th, 2022
Subject: RPT-21-332
Minor Zoning By-Law Amendment Application – ZBA44-21-KD
110 Maple Ave
Purpose: For Approval

Recommendation

That Application **ZBA44/21/KD** from Tom Komienski, Owner of Concession 12 part lots 2 and 3 respectfully known as 110 Maple Ave South, Burford, County of Brant, proposing to change the zoning on a portion of the subject lands from Agricultural (A) to Agricultural-Special Exception 9 (A-9) to prohibit a residential *dwelling unit* as a permitted use as required as a condition of consent application B60-20-AW, **BE APPROVED**.

THAT the reason(s) for approval are as follows:

- The application will ensure conformity to the policies of the Growth Plan for the Greater Golden Horseshoe and is consistent with the policies of *Provincial Policy Statement*.
- The application conforms to the policies of the County of Brant Official Plan and is in keeping with the intent of the Zoning By-Law.

Strategic Priority

1. Sustainable and managed growth

Financial Considerations

None.

Executive Summary

The purpose of this report is to provide Council and the public with information from the application to amend the County of Brant Zoning By-Law 61-16.

Minor Zoning By-Law Amendment Application **ZBA44/21/KD** is proposing to change the zoning on approximately 43 hectares (106.5 acres) of the subject lands from Agricultural (A) to Agricultural-Special Exception (A-9). The Agricultural-Special Exception 9 (A-9) prohibits a residential *dwelling unit* while continuing to permit the uses in the Agricultural (A) Zone.

This application is required in order to satisfy a condition of the related Consent Application B60-20-AW was conditionally approved by the Committee of Adjustment on February 18, 2021 to sever a surplus farm dwelling from the subject lands.

The property does not contain livestock and therefore OMAFRA Minimum Distance Separation (MDS) Guidelines do not apply to this surplus 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), County of Brant Official Plan (2012), and County of Brant Zoning By-Law), consultation with departments, and an inspection of the surrounding area.

This report recommends that Minor Zoning By-Law Amendment Application **ZBA44/21/KD** be **Approved**.

Location

The subject lands are generally located on the east side of Maple Ave South in the geographic Township of Burford. The surrounding lands mainly consist of farmed fields and associated agricultural structures, and rural residential lots. Based on aerial imagery and site visits there does not appear to be any livestock barns in close proximity to the subject lands.

The subject lands currently have a total area of approximately 44 hectares (108 acres). The subject lands are currently occupied by a single detached dwelling and accessory buildings and bunkhouse which are located on the lands to be retained.

The subject lands are privately serviced.

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.

Provincial Policy Statement – 2020

The Provincial Policy Statement (PPS) provides policy direction on matters of Provincial interest regarding land use planning and development and sets the policy foundation for regulating land use and development of land. All decisions affecting planning matters shall be 'consistent with' policy statements issued under the Planning Act.

Section 2.3.4.1(c) describes how lot creation in prime agricultural areas is discouraged and may only be permitted for a residence surplus to a farming operations, 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

- ***The surplus farm dwelling is proposed to be severed on a parcel of land having an area of approximately 6261 sq m (1.5 acres). This parcel size and shape recognizes the existing function of the property, accommodating all existing services (well, septic, access) and does not take active farmed land out of production.***
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 application will ensure that no new residential building lots will be created as the retained lands are to be rezoned to prohibit a dwelling as a condition of severance.***

It is my professional opinion that the request is consistent with the policies of the Provincial Policy Statement.

Growth Plan for the Greater Golden Horseshoe (2020)

The Growth Plan is a framework that provides policy direction to implement strong and prosperous communities and how to manage growth in Ontario to 2041. The Planning Act requires that all decisions that affect a planning matter shall 'conform with' Provincial plans, including but not limited to the Growth Plan.

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.

- ***The retained lands are expected to have an area of approximately 43 hectares (106.5 acres) and will be farmed as part of a larger farming operation.***

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.

- ***The retained lands will continue to be farmed as part of a larger farming operation and no new residential building lots will be created.***

It is my professional opinion that the request conforms to the policies of the Growth Plan.

Source Water Protection

Source protection plans contain a series of locally developed policies that, as they are implemented, protect existing and future sources of municipal drinking water. Municipalities, source protection authorities, local health boards, the Province and others, are responsible for implementing source protection plan policies.

Staff have reviewed Source Water Protection Area mapping, and the subject lands are not within a Source Water Protection zone.

County of Brant Official Plan (2012)

The County of Brant Official Plan sets out the goals, objectives and policies to guide development within the municipality. The *Planning Act* requires that all decisions that affect a planning matter shall 'conform to' the local Municipal Policies, including but not limited to the County of Brant Official Plan.

- ***The subject lands are designated an Agricultural land use within Schedule 'A' of the County of Brant Official Plan.***

Section 6.8.2.1(c)(iv) identifies 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;

- ***The surplus farm dwelling is proposed to be severed on a parcel of land having an area of approximately 6261 sq m (1.5 acres).***

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;

- ***The property does not contain livestock and therefore OMAFRA Minimum Distance Separation (MDS) Guidelines do not apply to this surplus dwelling severance.***

3. the lot severed, for the non-farm use, shall neither create nor add additional dwelling units; and

- ***The severed lands already contains an existing primary dwelling.***

4. the remnant parcel of farmland created by the severance is rezoned to prohibit the future construction of a new dwelling.

- ***This application will ensure that no new residential building lots will be created as the retained lands are to be rezoned to prohibit a dwelling as a condition of severance.***

It is my professional opinion that the request conforms to the policies of the County of Brant Official Plan.

County of Brant Zoning By-Law 61-16

The subject lands are zoned as Agricultural (A), within the County of Brant Zoning By-Law 61-16. The lands being severed are not within the Natural Heritage (NH) Zone.

Section 6.1 of County of Brant Zoning By-Law 61-16 speaks to permitted uses on lands zoned as Agriculture (A). Permitted uses include but are not limited to the following:

- Agricultural Use
- Agriculture-Related Use
- Cannabis Production and Processing
- Dwelling, Single Detached
- Farm Production Outlet
- Forestry Uses
- Greenhouse
- On-Farm Diversified Use
- Shipping Container

Section 6.5 of County of Brant Zoning By-Law 61-16 speaks to permitted uses on lands zoned as Agriculture-Special Exception 9 (A-9).

- Notwithstanding the provisions of this By-Law to the contrary, within any area zoned A-9 on Schedule 'A' hereto, no dwelling unit shall be permitted. All other requirements of the By-Law shall apply.

Section 4.29 of the County of Brant Zoning By-law speaks to lot creation as a result of consent with respect to a dwelling surplus to a farming operation located within the Agricultural (A) Zone the following shall apply:

- a. If the lot has a minimum 20.0 metre frontage, then said lot shall be deemed to comply with the requirements of this By-Law with respect to the lot area or lot frontage;
- b. The dwelling shall only be considered surplus to the farming operations if it was constructed a minimum of 15 years prior to the date the application for the surplus farm dwelling consent is received;
- c. The dwelling must be considered habitable at the time of application, as determined by the local municipal Chief Building Official;
- d. Minimum Distance Separation Guidelines shall apply as if the property were zoned or designated as a residential lot;

It is my professional opinion that the request is appropriate and maintains the intent of the County of Brant Zoning By-Law (61-16).

Interdepartmental Considerations

The following departments/agencies did not provide any comments as part of the circulation of this application:

- Development Engineering
- Field Services Development
- Energy Plus
- Operations
- Environmental Planning
- Oand Gas
- GIS Mapping / Civic Addressing
- Barke & Family
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Public Considerations

Notice of the January 4, 2022 recommendation meeting for this application including, Contact information and Public Hearing Date was circulated by mail on December 20, 2021 to all property owners within 125 metres of the subject lands in accordance with the *Planning Act*. A site visit along with the posting of the Public Notice sign was completed on December 1st, 2021.

At the time of writing this report, no public comments or correspondence have been received.

Conclusions and Recommendations

Minor Zoning By-Law Amendment Application **ZBA44/21/KD** is proposing to change the zoning on 43 hectares (106.5 acres) of the subject lands from Agricultural (A) to Agricultural-Special Exception (A-9). The Agricultural-Special Exception 9 (A-9) prohibits a residential *dwelling unit* while continuing to permit the uses in the Agricultural (A) Zone.

This application is required in order to satisfy a condition of the related Consent Application B60-20-AW was conditionally approved by the Committee of Adjustment on February 18, 2021 to sever a surplus farm dwelling from the subject lands.

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 conforms to the County of Brant Official Plan. None of the agencies and departments circulated raised any concerns.

It is my professional opinion that the request is appropriate and represents good planning and therefore I recommend that the Minor Zoning By-Law Amendment Application **ZBA44-21-kd** be **Approved**.

Attachments

1. Zoning Map
2. Official Plan Map
3. Aerial Map

Copy to

1. Pam Duesling, General Manager of Development Services

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

File # ZBA44-21-KD

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

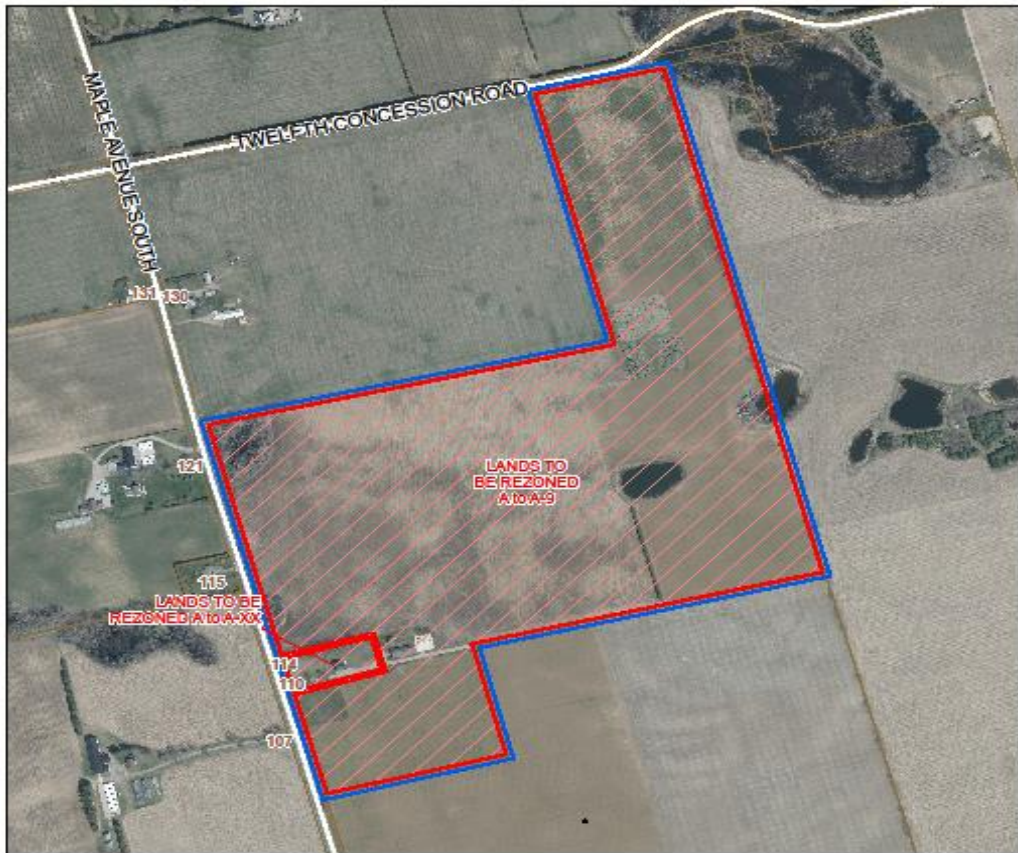
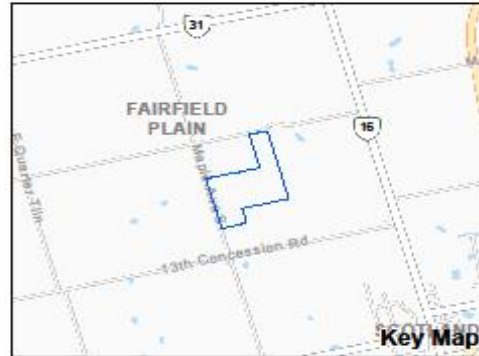
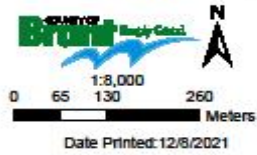
By-Law required (Yes)

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)

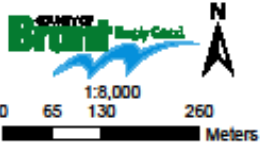
MAP 3: AERIAL IMAGERY 2020
FILE NUMBER
ZBA44-21-KD

110 MAPLE AVENUE
 County of Brant
 Ontario



**MAP 2: OFFICIAL PLAN
FILE NUMBER
ZBA44-21-KD**

110 MAPLE AVENUE
County of Brant
Ontario



Date Printed: 12/8/2021

