



## Planning Report

**To:** Municipality of Kincardine Council

**From:** David Welwood, Consultant Planner

**Date:** September 13, 2023

**Re:** Zoning By-law Amendment Z-2023-040 (Wilken)

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### Recommendation:

Subject to a review of submissions arising from the public meeting it is recommended:

That Council approve Zoning By-law Amendment Application Z-2023-040 for Jon Wilken for a portion of Concession 11, West Part Lot 2, in the Municipality of Kincardine.

### Summary:

The purpose of the application is to facilitate the severance of a +/- 0.706 ha surplus farm dwelling lot from a +/-19.46 ha agricultural parcel at 1380 Concession Road 11 (Kincardine Township), in the Municipality of Kincardine. The retained farm parcel will be merged with the neighbouring farm to the east. The Zoning By-law amendment will allow for a reduced frontage for the severed lot and prohibit residential structures on the retained agricultural lot; and will place a Holding provision on both parcels requiring an Archaeological Assessment for the lands containing high archaeological potential. The Environmental Protection (EP) zone will remain unchanged. If approved, the effect of the application would facilitate a surplus farm dwelling severance from the subject lands.

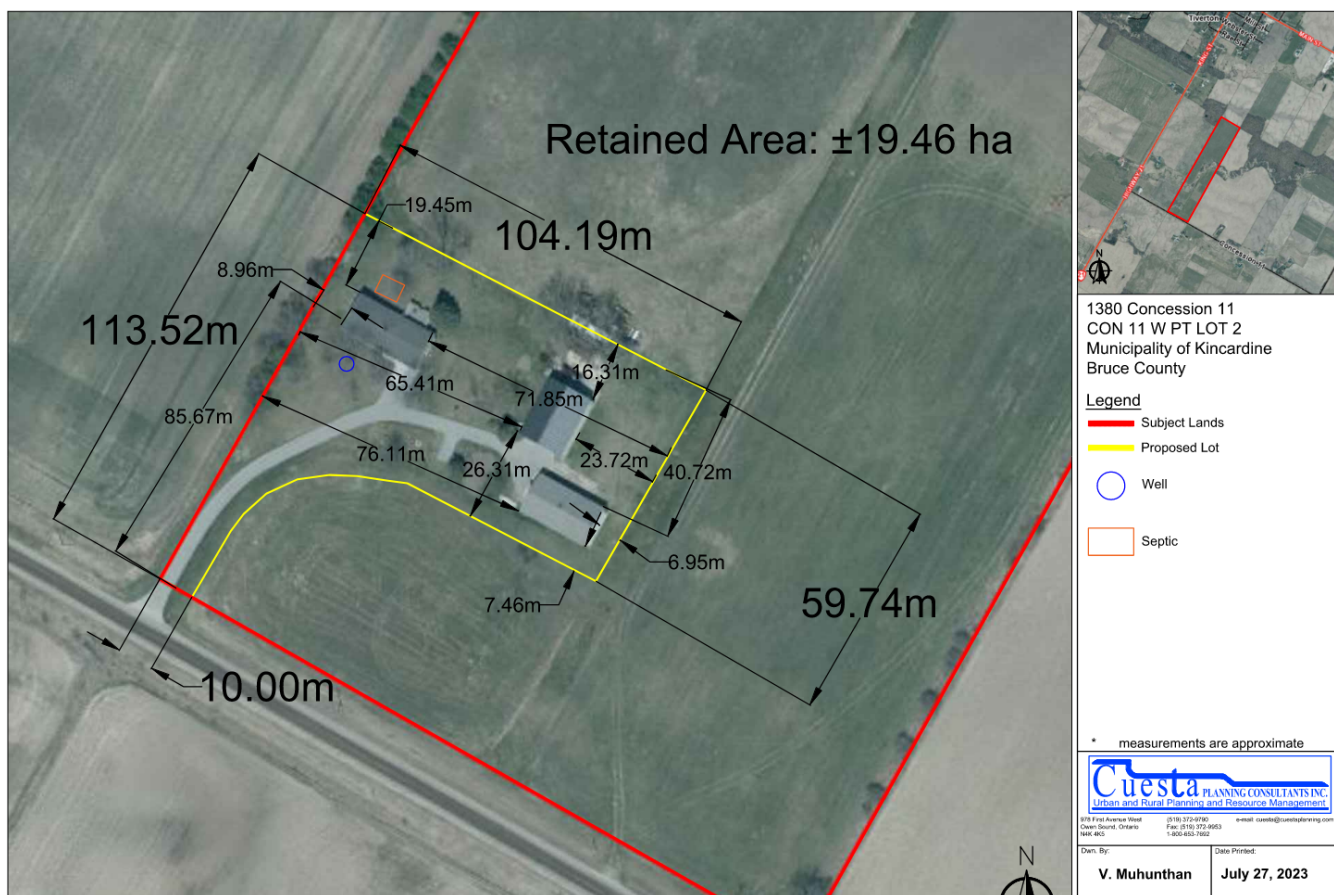
The related consent file (B-2023-044) will be considered by the County at a later date.

The property is located south of Tiverton, east of Highway 21, on the north side of Concession Road 11. The site is surrounded by other agricultural uses.

## Airphoto



## Site Plan





**Image of Existing Structures**



**Image of Agricultural Lands north of the Structures**



## Planning Analysis:

The following section provides an overview of the planning considerations that were factored into the staff recommendation for this application, including relevant agency comments (attached), and planning policy sections.

### Surplus Farm Dwelling Severance

Surplus farm dwelling severances are generally considered to be good for agriculture, on balance, because they enable farmers who have consolidated different lots into one operation to dispose of houses on the land that are surplus to the needs of the operation.

The only kind of residential severance allowed under the Provincial Policy Statement (PPS) and the Bruce County Official Plan (BCOP) is a surplus farm dwelling severance provided that it: is the result of farm consolidation, the new lot is limited in size and that residential dwellings are prohibited on the remnant parcel.

The subject lands are designated Agricultural Area and Hazard Land Area in the BCOP. To meet the BCOP policies for surplus farm dwelling severances, the owner of the farmlands must be a 'bona fide farmer'. For the purposes of this policy, the 'bona fide farmer' must:

- a) own and farm the lands on which the surplus dwelling is proposed to be severed;
- b) own and farm other lands; and,
- c) own a residence elsewhere, or reside as a tenant elsewhere, therefore rendering the residence on the subject farm surplus to their needs.

A 'bona fide farmer' is defined as including a limited company, sole proprietorship, incorporated company, numbered company, partnership, non-profit and other similar ownership forms.

The BCOP requires that the lot proposed for the residence and buildings surplus to the farming operation be limited in area and shall only be of sufficient size to accommodate the residence surplus to the farming operation, accessory buildings (where including accessory buildings does not render the lot excessively large in the opinion of the Land Division Committee), a well and a sewage disposal system, while ensuring that as little area as possible is removed from the agricultural lands.

The PPS and BCOP also requires existing surplus dwellings to be habitable at the time of application. A home inspection report was included with the application for the existing dwelling. The dwelling is in good condition and is considered habitable.

The applicants meet the definition of bona fide farmers. They own multiple properties in the area for agricultural purposes. The existing single detached dwelling, and two storage sheds are surplus to the owner's needs. The proposal meets all the criteria established in the PPS and County Official Plan for agricultural severances.

## Retained Farm Lot Size

The existing property is +/-19.46 ha in size and is already considered undersized. The applicants are proposing to sever the residential dwelling and merge the retained parcel with the neighbouring +/- 55 ha farm to the east, where it will continue to be used for agriculture. The combined total lot area of these land holdings will be +/- 74.46 ha. It is the opinion of County staff that this proposal maintains the overall intent of the agricultural policies. The lot merger will increase the size and viability of the farming operation. The amendment will allow the applicants to sever a house that is surplus to their needs while contributing to the ongoing viability of their farm operations. A condition of the related application for consent will be that the retained parcel be merged on title with the lands to the east described as East Part of Lot 2 and Part of Lot 3, Concession 11.

## Archaeological Potential

Both the proposed severed lot and the retained farm lot are considered to have high archeological potential due to the presence of a watercourse running roughly through the centre of the property. A holding provision (H1) requiring an Archaeological Assessment for the lands containing high archaeological potential is proposed as part of the approval of the Zoning By-law Amendment application. The holding provision will not allow site alteration or development until an archaeological assessment has been provided by a qualified individual; the appropriate Ministry has accepted and registered the assessment, if required; and the recommendations of the archaeological assessment (if any) have been implemented. Normal farm practices can continue on the lands identified as having high archeological potential.

## Required Zoning By-Law Amendments

An amendment to the Zoning By-law is required in order to facilitate the severance. The proposed severed lot will be rezoned from General Agriculture Special (A1-f) to General Agriculture Special Holding (A1-ho-H1) with the following provisions:

- The Non-Farm lot shall have a minimum lot frontage of 10 metres. This frontage is considered acceptable and will limit the amount of land removed from agricultural production.

The proposed retained lot will be rezoned from General Agriculture Special (A1-f) to General Agriculture Special Holding (A1-a-H1). Section 9.5.1 of the Zoning By-law sets out the requirement that in the General Agriculture Special (A1-a) Zone, no residential buildings or structures are permitted.

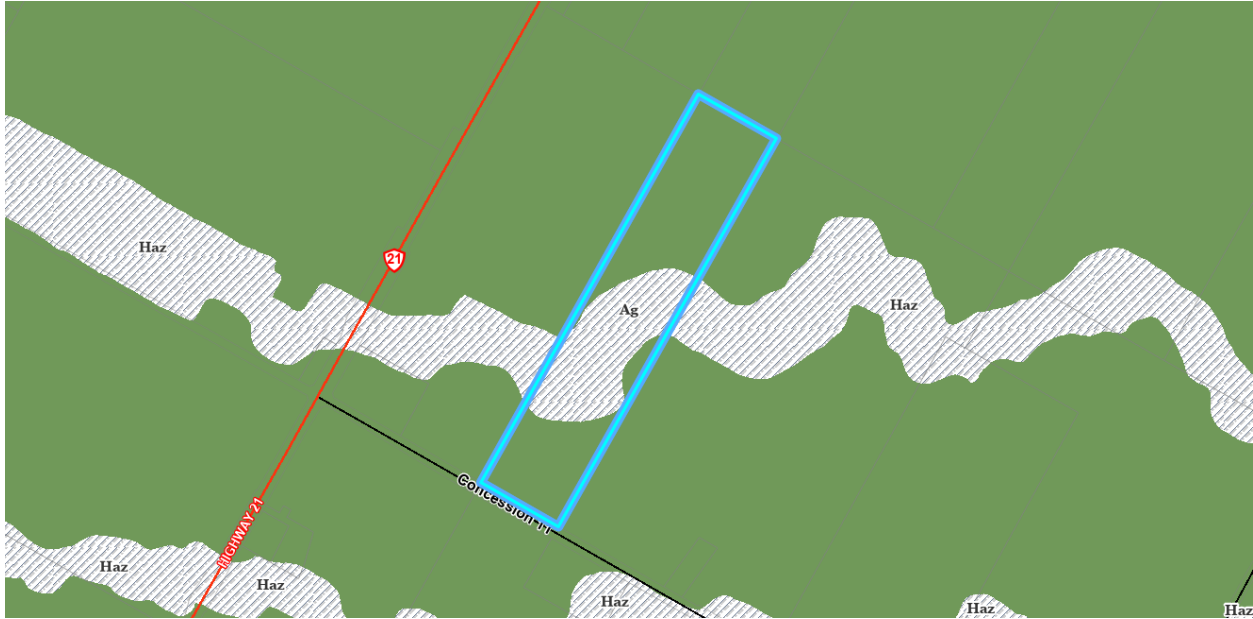
The EP - Environmental Protection zone will remain unchanged.

## Appendices

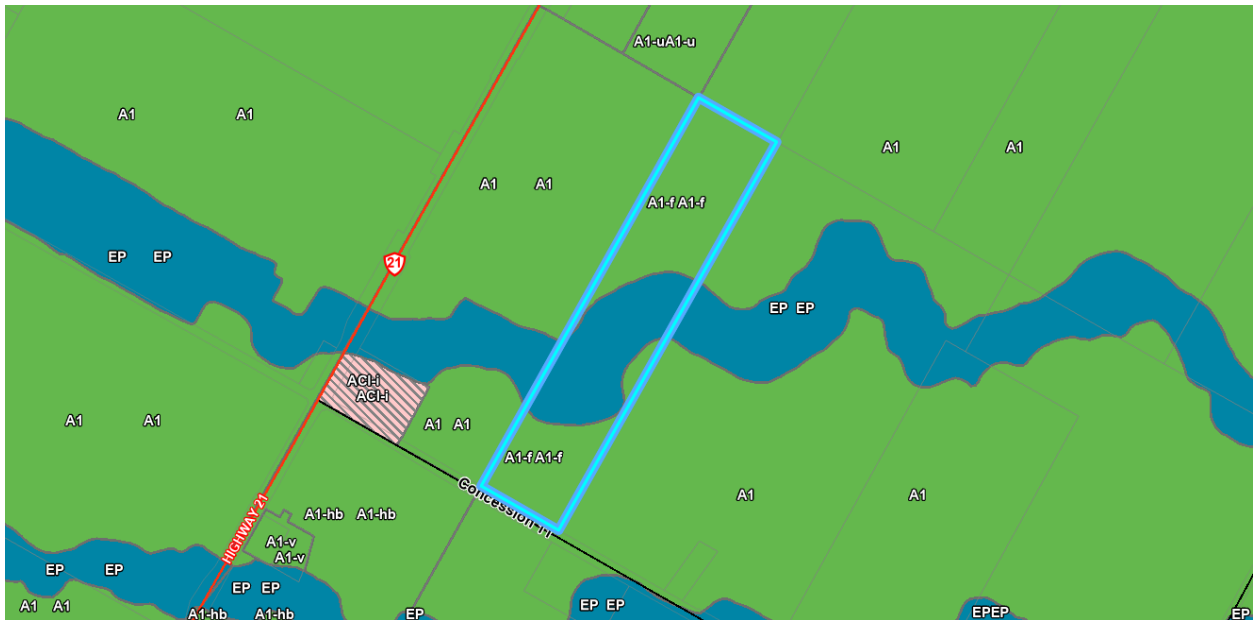
- County Official Plan Map
- Local Zoning Map
- List of Supporting Documents and Studies
- Agency Comments

- Public Notice

### County Official Plan Map (Designated Agricultural Areas, Hazard Land Areas)



### Local Zoning Map (Zoned A1-f - General Agriculture, EP - Environmental Protection)



### List of Supporting Documents and Studies

- Planning Justification Report, Cuesta Planning Consultants Inc., May 2023
- Home Inspection Report, Huron Home Inspection, November 5, 2022



- Updated Site Plan - July 2023

### **Agency Comments**

The application was circulated to the required agencies and all properties within 120 metres of the subject property on July 27, 2023, the following comments were received:

Chief Building Official / Development Services Manager - August 11, 2023:

- Ensure Hydro/Utility services from the road into the severed parcel are within the lot fabric.
- Locate septic system (possibly indicated in orange) and ensure the system is within the proposed lot lines. This includes verifying that all distribution lines are minimum 3m from any newly created lot lines.

Saugeen Valley Conservation Authority : See attached comments in full.

Historic Saugeen Métis (HSM): The HSM Lands, Resources and Consultation Department has reviewed the relevant documents and have no objection or opposition to the proposed Land Severance and Zoning By-law Amendment as presented.

Hydro One Networks Inc.: We have reviewed the documents concerning the noted Application and have no comments or concerns at this time. Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only. For proposals affecting 'Low Voltage Distribution Facilities,' the Owner/Applicant should consult their local area Distribution Supplier where it may not be Hydro One.

### **Public Comments**

None at time of writing.

SENT ELECTRONICALLY ONLY ([bcplpe@brucecounty.on.ca](mailto:bcplpe@brucecounty.on.ca) and [dwelwood@brucecounty.on.ca](mailto:dwelwood@brucecounty.on.ca))

August 11, 2023

County of Bruce Planning and Development Department  
1243 Mackenzie Road  
Port Elgin, ON N0H 2C6

ATTENTION: David Welwood – Planner

Dear Mr. Welwood,

RE: Proposed Zoning By-law Amendment Z-2023-040 and Consent to Sever B-2023-044  
1380 Concession 11  
Part Lot 2, Concession 11  
Roll No. 410821000311400  
Geographic Township of Kincardine  
Municipality of Kincardine

Saugeen Valley Conservation Authority (SVCA) staff has reviewed the above-noted applications as per our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 3 of the Provincial Policy Statement (PPS, 2020) and as a regulatory authority under Ontario Regulation 169/06 (SVCA's Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses Regulation). Staff have also provided comments as per our Memorandum of Agreement (MOA) with the County of Bruce representing natural hazards. The applications have also been reviewed through our role as a public body under the Planning Act as per SVCA's Member approved Environmental Planning and Regulations Policies Manual, amended October 16, 2018. Finally, we have screened the applications to determine the applicability of the Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Plan, prepared under the Clean Water Act, 2006.

## Purpose

This application proposes to sever a +/- 0.706 hectare parcel of land with a frontage of 10 meters containing a farmhouse and two outbuildings located in the southwestern part of the subject property. The retained farm parcel will have an area of +/- 19.46 hectares with a frontage of 190.24 meters on Concession 11 and will be merged with the neighboring farm to the west. The severed parcel will be rezoned General Agriculture Special Holding (A1-XX-H) to recognize the surplus dwelling and outbuildings. The retained parcel will be rezoned General Agriculture Special Holding (A1-a-H) to prohibit residential uses. The Holding (H) symbol on the



zoning for both parcels could be removed after the submission of an Archaeological Assessment and an Acknowledge Letter from the Ministry of Citizenship and Multiculturalism.

## **Recommendation**

The applications are generally acceptable to SVCA staff. We elaborate in the paragraphs below.

## **Delegated Responsibility and Advisory Comments**

### **Natural Hazards**

The natural hazard feature affecting the property is a watercourse and its associated flood and erosion hazards as well as any wetlands/swamps. It is SVCA staff's interpretation that the Municipality of Kincardine Zoning By-law 2003-25 Environmental Protection (EP) zone and Environmental Hazard designation in the County of Bruce Official Plan (OP) are consistent with SVCA hazard mapping for the property. Based on the site plan submitted, it is the understanding of SVCA staff that no new buildings or structures are proposed for the property at this time.

The following is a summary of Provincial, County and Municipal natural hazard policies that affect the subject property.

#### **Provincial Policy Statement – Section 3.1**

Section 3.1.1 of the PPS (2020) states, in general, that development shall be directed to areas outside of hazardous lands (flooding hazards, erosion hazards, dynamic beach hazards), and hazardous sites (organic soils, leda clay, unstable bedrock).

#### **County of Bruce Official Plan Policies**

Section 5.8 of the County of Bruce OP generally directs development to be located outside of the Hazard Land designated area.

It is the opinion of SVCA staff that the applications comply with the natural hazard policies of the PPS (2020), and the County of Bruce OP.

### **Drinking Water Source Protection**

The subject property appears to SVCA staff to not be located within an area that is subject to the local Drinking Water Source Protection Plan. To confirm, please contact the Risk Management Official (RMO) at [rmo@greysauble.on.ca](mailto:rmo@greysauble.on.ca).

## **SVCA Regulation 169/06**

SVCA staff has reviewed the applications as per our responsibilities as a regulatory authority under Ontario Regulation 169/06 (SVCA's Development, Interference with Wetlands, and

Alterations to Shorelines and Watercourses Regulation). This regulation, made under Section 28 of the Conservation Authorities Act, enables SVCA to regulate development in or adjacent to river or stream valleys, Great Lakes and inland lake shorelines, watercourses, hazardous lands and wetlands. Subject to the Conservation Authorities Act (CAA), development taking place on or adjacent to these lands may require permission from SVCA to confirm that the control of flooding, erosion, dynamic beaches, pollution or the conservation of land are not affected. SVCA also regulates the alteration to or interference in any way with a watercourse or wetland.

The parcel to be severed is not located within the SVCA Approximate Screening Area, however, areas of the parcel to be retained are within the SVCA Approximate Screening Area associated with Ontario Regulation 169/06. As such, development and/or site alteration within this area requires permission from SVCA, prior to carrying out the work. For the property, the SVCA Approximate Screening Area includes a watercourse and its related flood and erosion hazards, any wetlands/swamps and an offset distance from these features.

“Development” as defined under the Conservation Authorities Act means:

- a) the construction, reconstruction, erection or placing of a building or structure of any kind;
- b) any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure;
- c) site grading; or,
- d) the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.

And;

“Alteration” as per Section 5 of Ontario Regulation 169/06 generally includes the straightening, diverting or interference in any way with a river, creek, stream or watercourse, or the changing or interfering in any way with a wetland.

To determine the SVCA Approximate Regulated Area on the property, please refer to the SVCA’s online mapping program, available via the SVCA’s website at <http://eprweb.svca.on.ca>. Should you require assistance, please contact our office directly.

### **SVCA Permission for Development or Alteration**

If development or site alterations including construction, reconstruction, conversion, grading, filling or excavation, as well as agricultural tile drainage, and/or alterations to a watercourse, is proposed within the SVCA Approximate Screening Area, the SVCA should be contacted as permission (SVCA permit) may be required prior to the works commencing.

## Summary

SVCA staff has reviewed this applications in accordance with our MOA with the County of Bruce, and as per our mandated responsibilities for natural hazard management, including our regulatory role under the Conservation Authorities Act. Additionally, we have screened the proposed to determine the applicability of the Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Plan, prepared under the Clean Water Act, 2006.

The applications are generally acceptable to SVCA staff.

Given the above comments, it is the opinion of the SVCA staff that:

- 1) Consistency with Section 3.1, Natural Hazard policies of the PPS has been demonstrated; and
- 2) Consistency with local planning policies for natural hazards has been demonstrated.

Please inform this office of any decision made by the Municipality of Kincardine and/or County of Bruce regard to these applications. We respectfully request to receive a copy of the decision and notice of any appeals filed.

Should you have any questions, please contact the undersigned.

Sincerely,



Cassandra Malo  
Environmental Planning Technician  
Saugeen Conservation  
CM/

cc: Jennifer Lawrie, Clerk, Municipality of Kincardine (via email)  
Jennifer Prenger, Authority Member, SVCA (via email)  
Bill Stewart, Authority Member, SVCA (via email)