



## Planning Report

**To:** Municipality of Kincardine Council

**From:** David Welwood, Consultant Planner

**Date:** August 3, 2023

**Re:** Zoning By-law Amendment Z-2022-017 (Hunter)

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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-2022-017 for Erin Walter and Dan Hunter for a portion of Plan 10 Park Part of Lot 1, in the Municipality of Kincardine.

### Summary:

The application has been submitted to facilitate Severance applications B-2022-036 and B-2022-038 which propose to create a new residential building lot (Lot 2) having an area of 612 m<sup>2</sup> with 16.1 meters of frontage on Queen Street, and a second residential building lot (Lot 3) having an area of 8,731 m<sup>2</sup> having 14.06 meters of frontage on Queen Street, plus a retained lot (Lot 1) containing an existing single detached dwelling having a lot area of 612 m<sup>2</sup> with a frontage of 16.1 meters on Queen Street.

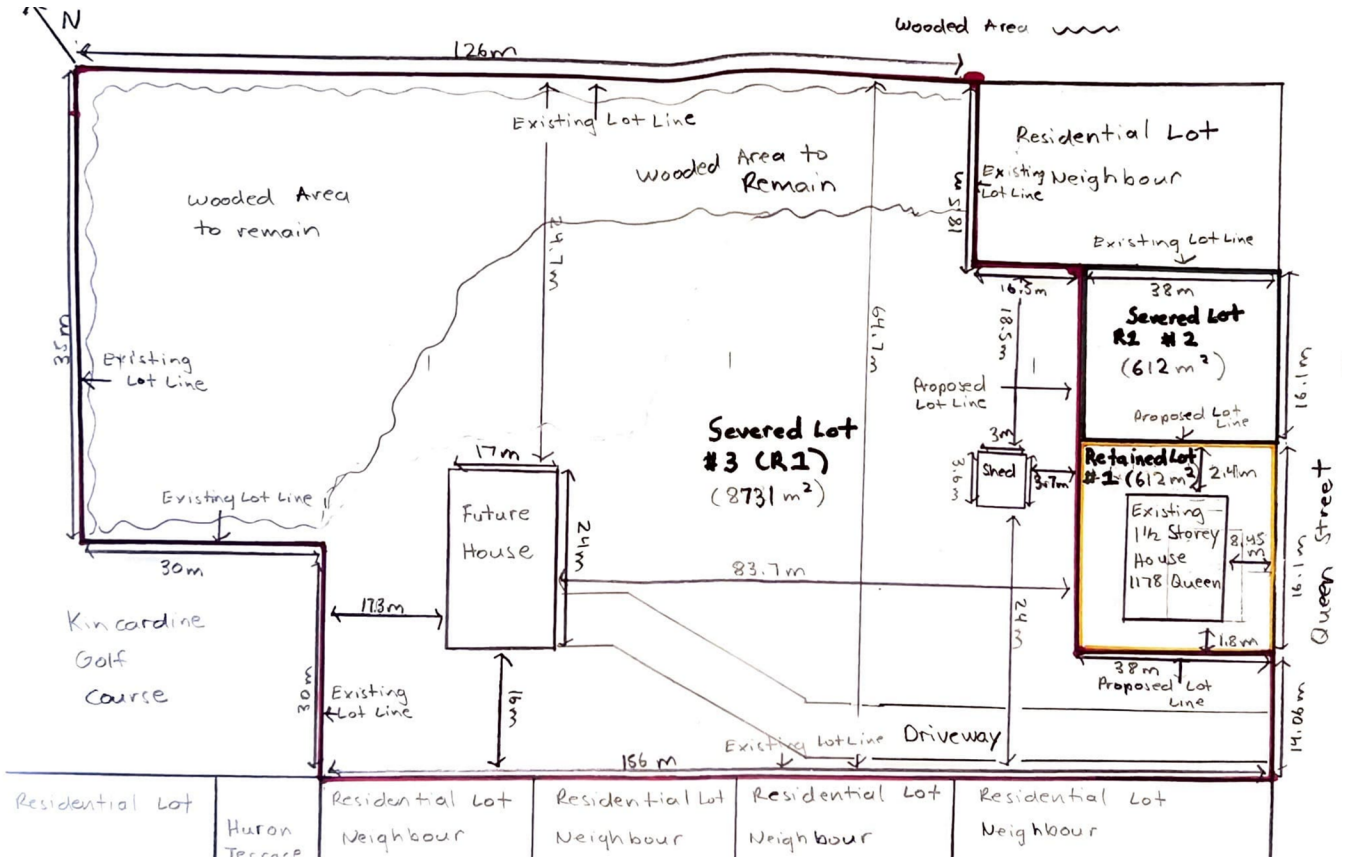
The Zoning By-law Amendment proposes to re-zone Lot 3 from Residential One (R1) to a Residential One Special Exception (R1-bv) Zone in order to recognize the proposed 14.06-meter lot frontage whereas 15 meters is required, and to implement the recommendations of an Environmental Impact Study submitted with the applications.

The subject lands are located in the Kincardine urban settlement area on the west side of Queen Street, and east of the northern terminus of Huron Terrace. The lands are surrounded by low density residential lands to the south, east and north, and the Kincardine Golf Course to the west. A 46-unit townhouse development is proposed on lands immediately to the north at 1182 Queen Street (Kelden Developments Inc., approved by the Ontario Land Tribunal on March 23, 2023).

A previous iteration of the current application was initially submitted in March 2022, which included a proposed additional lot (File B-2022-039) being a portion of the lot currently proposed through Application B-2022-038, and a minor variance to address the proposed frontage of Lot 3 (File A-2022-021). Both of these files have since been withdrawn. In addition, an application for a Bruce County Official Plan Amendment (COPA) was proposed to permit private sewage disposal services for Lot 3. The revised concept is now proposed to



# Site Plan





## Image of Existing Structure (Including Lot 2)



### Planning Analysis:

The following section provides an overview of the planning considerations that were factored into the staff recommendation for this application, including a review of the Provincial Policy Statement, 2020, the Bruce County Official Plan, the Municipality of Kincardine Official Plan, and the Municipality of Kincardine Comprehensive Zoning By-law.

The 2020 Provincial Policy Statement (PPS) issued under Section 3 of the Planning Act requires that land use planning decisions ‘be consistent with’ provincial policies. Decision makers are asked to be consistent with the policies of the PPS including: 1. Building Strong Communities; 2. Wise Use and Management of Resources; and 3. Protecting Public Health and Safety. The PPS is to be read in its entirety and the relevant policies are to be applied to each situation, therefore only excerpts from the PPS have been highlighted to demonstrate the proposal’s conformity with the Provincial Policy Statement.

Schedule ‘A’ of the Bruce County Official Plan (BCOP) designates the subject property within a Primary Urban Community and supports a mix of uses including residential development within the settlement area designation. The BCOP defers to the local zoning by-law for lot sizes and development provisions.

The subject property is designated Residential in the Kincardine Official Plan (KOP) and is located in an established neighbourhood within the Kincardine settlement area.

Section 1.1.3 of the PPS 2020 directs development to settlement areas. It states that the “vitality and regeneration of settlement areas is critical to the long-term economic prosperity of our communities.” It further states that “[s]ettlement areas shall be the focus of growth and development.” (PPS, 2020 Section 1.1.3.1). The proposed changes will facilitate residential development of the lands and are supported by provincial policy and both the County and local Official Plans.

### Water and Sewer Services

The proposed development is located in an area fully serviced by municipal water and sewer. Lot 3 was initially proposed to be partially serviced with a proposed septic system. An amendment to the BCOP was required in order to permit partial servicing of the subject land. However, the proposal has since been revised and servicing to Lot 3 is proposed to be provided by an extension of a new sewer line being constructed to support the adjacent development to the north at 1182 Queen Street. Ensuring the development is connected to full municipal services is consistent with the servicing policies in Section 1.6.6 of the PPS 2020, and conforms with the servicing policies of the BCOP and the KOP.

The Municipality of Kincardine requires that a servicing easement for the proposed sewer connection be registered on title of Lot 3. A condition of provisional consent approval for File B-2022-038 will be that the applicants obtain a servicing easement to provide access to the adjacent sewer line.

### Natural Heritage

Section 2.1 of the PPS 2020 directs that Natural features and areas shall be protected for the long term. The natural heritage features identified on and adjacent to the site include a significant woodland, and potential habitat of endangered and threatened species (species at risk) and potential significant wildlife habitat. The BCOP and the KOP require that prior to development on or adjacent to such features, it must be demonstrated that there will be no negative impacts on the natural features or their ecological functions.

An Environmental Impact Study (EIS) was prepared in support of the project. The report concluded that negative impacts to natural heritage features or their ecological functions adjacent to the site can be effectively avoided, minimized or mitigated in accordance with the study’s recommended mitigation measures as outlined in the report.

The recommendations included:

- Minimizing the extent of vegetation removal and damage;
- Re-stabilizing and re-vegetating exposed soil surfaces with native species;
- Ensuring machinery is in clean condition and maintained free of fluid leaks, invasive species and noxious weeds;
- Conducting any vehicle maintenance away from the subject property;

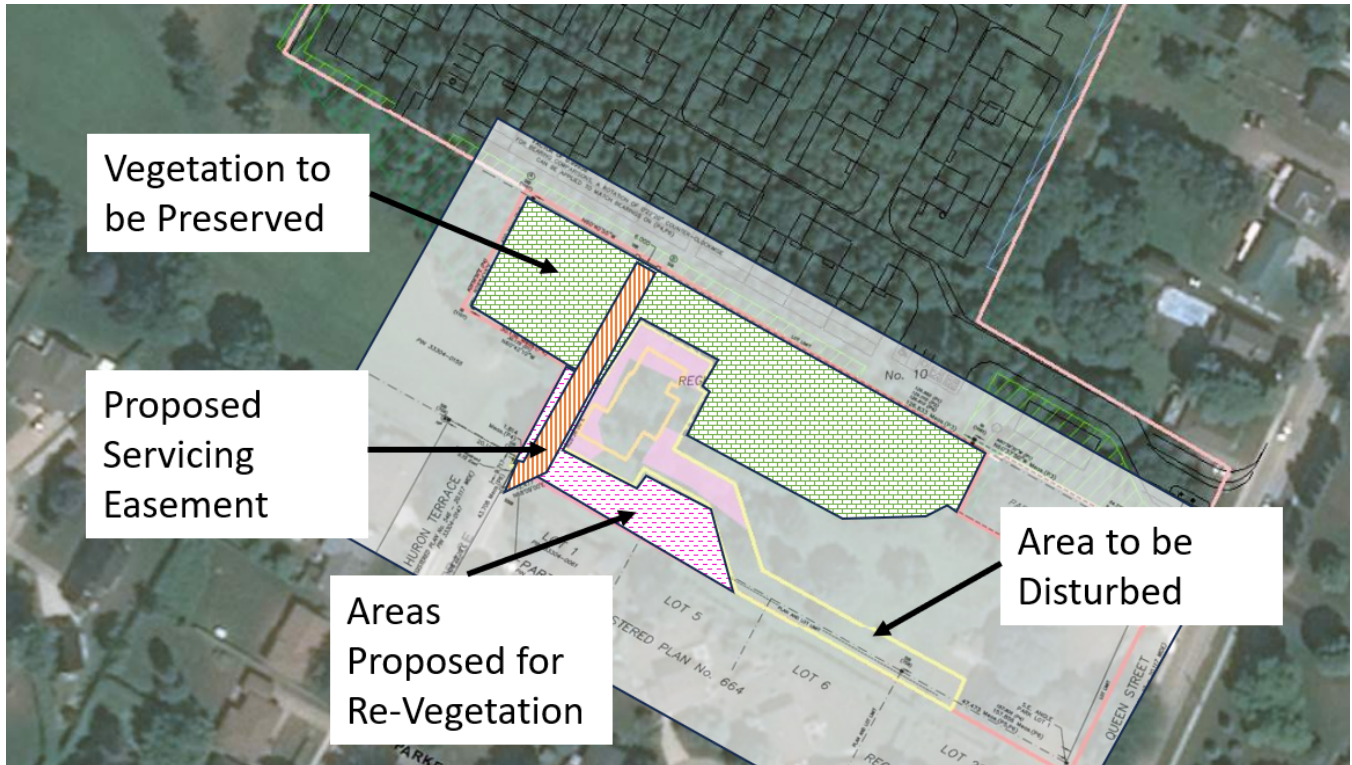
- Proper storage/containment, maintenance, filtering or handling of any construction-related material, equipment and construction-generated materials at least 15 meters away from sensitive areas;
- Tree protection fencing where feasible around the work zone;
- Replanting trees within the identified areas;
- Re-seeding groundcover areas that have been disturbed with a woodland seed mix;
- Vegetation removal will be avoided during migratory bird nesting season (April 1<sup>st</sup> to August 31);
- No active nests to be removed or disturbed, in accordance with the *Migratory Birds Convention Act, 1994 (MBCA)*;
- If a nesting migratory bird is identified within or adjacent to the construction site, and construction activities could contravene the MBCA, all activities will stop and Environment Canada and Climate Change will be contacted;
- Other wildlife incidentally encountered during construction will not knowingly be harmed and will be allowed to move away on its own;
- Any equipment parked overnight will be inspected to ensure wildlife have not climbed into or beneath it;
- All tree removal will be undertaken during the bat hibernation period (November 1<sup>st</sup> to March 31);
- Tree removals will be minimized wherever possible;
- Adherence to mitigation measures in Section 7.2.1 of the MBCA to avoid impacts to other species at risk (SAR) bird species;
- If SAR or potential SAR is found, all activities that could harm SAR must cease, and the Ministry of the Environment, Conservation and Parks (MECP) biologist will be contacted; and
- SAR or potential SAR will not be handled prior to consulting with MECP.

The Saugeen Valley Conservation Authority (SVCA) was circulated Notice of Complete Application and Public Meeting on July 11, 2023. While conservation authorities can no longer provide natural heritage review of applications as of January 1, 2023, the SVCA has continued its review of applications that were in process as of that date, such as the two proposed consent applications. SVCA provided comments on August 1, 2023 and noted that the recommendations in the EIS are acceptable. It is proposed that all of the recommended mitigation measures will be addressed through a proposed condition of approval for Consent Application B-2022-038 requiring that an agreement be entered into in order to implement the recommendations of the EIS.

As shown on Figure 1, the proposed servicing easement would traverse an area identified for tree retention in the EIS. The EIS will need to be revised to account for the additional required tree removal. The recommended agreement will also address the requirement to revise the EIS and comply with any revised conditions.



Figure 1: Environmental Impact Study



### Municipality of Kincardine Zoning By-law No. 2003-25

The subject lands are zoned Residential One (R1) in the Municipality’s Comprehensive Zoning By-law. Zoning By-law Amendment Z-2023-017 is proposed to amend the zoning to implement the recommendations of the Environmental Impact Study (EIS) and to reduce the lot frontage for Lot 3 from 15 meters to 14.06 metres. Due to the shape of Lot 3, the reduced frontage is reasonable given that there is sufficient space to accommodate the driveway. Furthermore, given that the proposed building envelope is located further towards the rear of the property where the distance between side lot lines is larger, there are no concerns related to the ability of the proposed dwelling to meet all applicable zoning setbacks. Specific to the EIS, the proposed Zoning By-law Amendment will preserve a no-cutting buffer in areas of existing forest cover outside of the proposed building envelope, as well as applying to an area of future tree plantings immediately south of the building envelope.

The Retained Lot (Lot 1) and Lot 2 each have a proposed lot area of 612 m<sup>2</sup> and a lot frontage of 16.1 metres, which complies with the Zoning By-law requirement for lot area and frontage of 464 m<sup>2</sup> and 15 meters respectively.

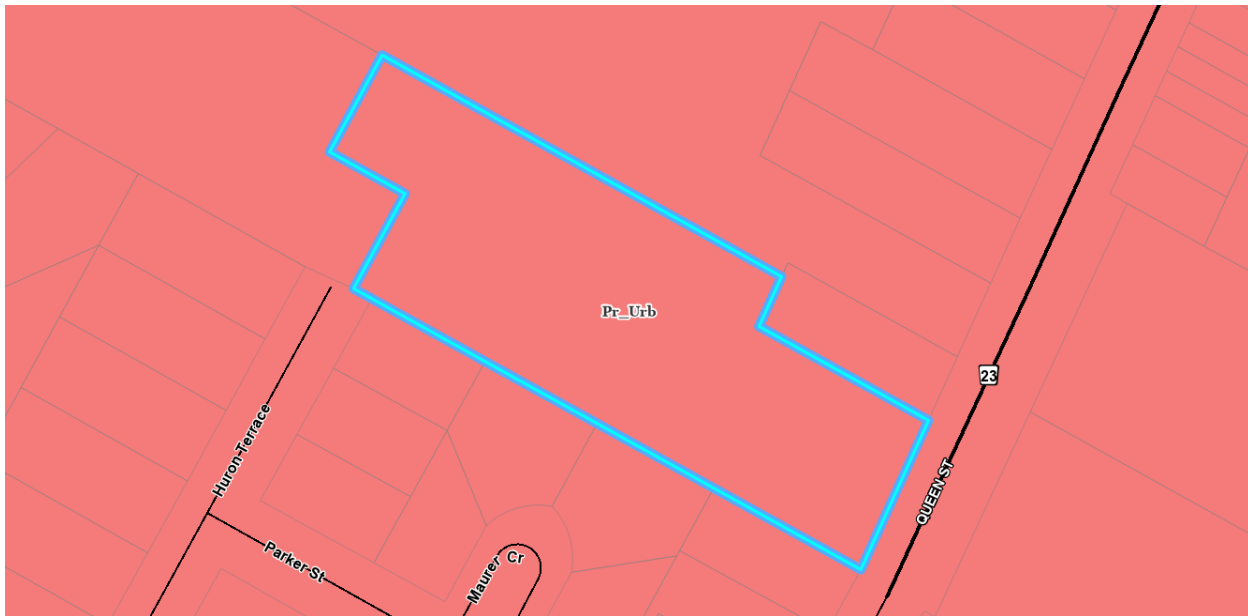
A draft amending by-law is attached for Council’s consideration.

### Appendices

- County Official Plan Map
- Local Official Plan Map

- Local Zoning Map
- List of Supporting Documents and Studies
- Agency Comments
- Public Comments
- Public Notice

### County Official Plan Map (Primary Urban Communities)

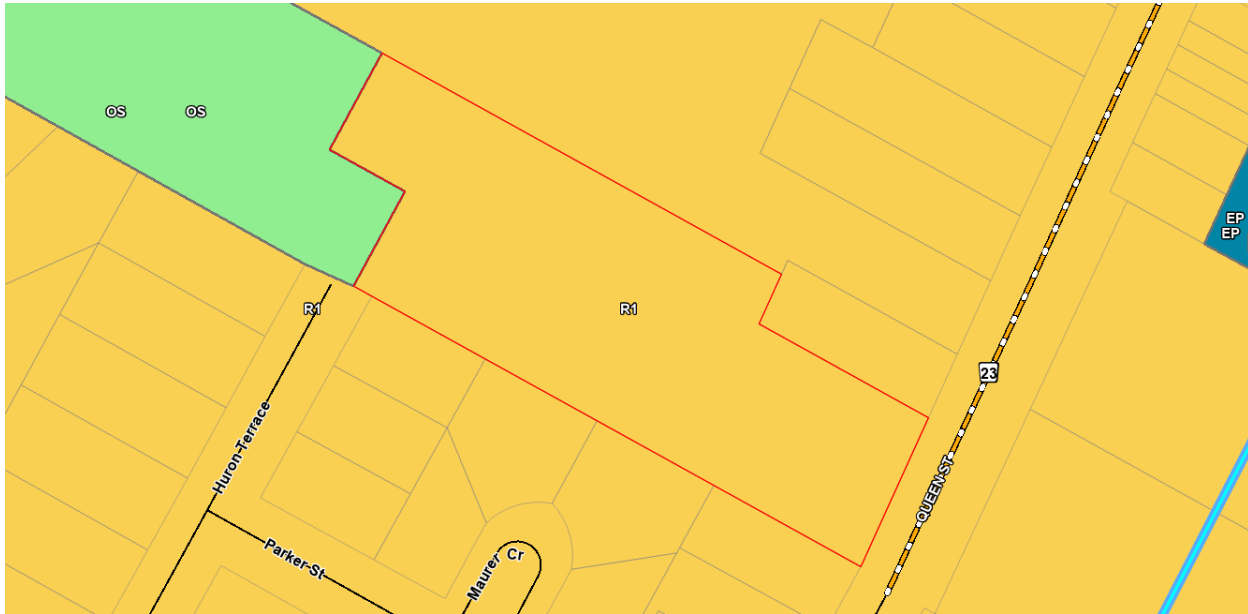


### Local Official Plan Map (RES - Residential)





## Local Zoning Map (R1 - Residential One)



## List of Supporting Documents and Studies

- Environmental Impact Study, WSP, November 11, 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 11, 2023, the following comments were received:

Chief Building Official, July 25, 2023:

- Owner to provide sewer easement for sewer tie into Huron Terrace (possible extension to include development to the North)
- Provide the Municipality with the a "Certificate of Completion" from the ecologist at WSP Canada Inc. noting that the works outlined under project 221-09746-00 have been implemented and completed in accordance with the submitted E.I.S (Remove requirement for formal agreement in #8 - this can be executed as a condition of severance to be completed within 2 years)
- Driveways accessing onto Queen will be subject to County approvals

Director of Infrastructure and Development, July 25, 2023:

- All severed lots will need to be serviced and we will need to ensure retained lots have servicing within their frontage.

Bruce County Transportation Services, August 1, 2023:

- No comment.

Risk Management Officer, July 12, 2023 (Clarification received July 27,2023):

- Neither section 57 (Prohibited Activities) nor 58 (Regulated Activities) of the *Clean Water Act*, 2006 applies on the subject property. No policies apply to the activities identified on the Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Plan apply.
- The lands are located within the Events-based Area for the Kincardine Drinking Water System, and the storage of fuel greater than 3000 litres is prohibited.

Hydro One, July 20, 2023:

- We are in receipt of Application for Consent, B-2022-036, B-2022-038 dated July 11th, 2023. 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' please consult your local area Distribution Supplier.

Historic Saugeen Métis (HSM), July 24, 2023:

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

Saugeen Valley Conservation Authority, August 1, 2023: comments are attached in full below.

## Public Comments

Andrew McFarlan: In comments dated August 1, 2023, Andrew McFarlan noted:

“I am the owner of the neighbouring property to the property the subject application, municipal address 1174 Queen St, immediately south and facing Queen St. I notice in the sketch that you provided by mail, that the proposed driveway for severed lot #3 is shown to be bordering my property, with no measurement of the distance between the driveway and the property line.

There is an existing overhead hydro and telecommunications line that follows the property line from Queen St. west toward Huron Terrace. If possible, I would like more detailed information regarding the official property allowance or easement (if any) for this overhead hydro transmission line, including any required minimum distance from the proposed new driveway severing lot #3, and the poles supporting the hydro and telecommunications transmission lines that I describe here.”

*Staff comment: The driveway will need to meet the requirements of the Municipality's Zoning By-law, which requires a width of between 3 and 9 metres. Lot 3 has a proposed frontage of 14.06 metres which provides sufficient room to locate a driveway on Lot 3 away from the lot line of 1174 Queen Street and the hydro and telecommunications line. A permit will be required from the County for the driveway.*



1078 Bruce Road 12 | P.O. Box 150 | Formosa ON  
Canada | N0G 1W0 | 519-364-1255  
www.saugeenconservation.ca  
publicinfo@svca.on.ca

SENT ELECTRONICALLY dwelwood@brucecounty.on.ca and bcplpe@brucecounty.on.ca

August 1, 2023

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

ATTENTION: David Welwood, Planner

Dear Mr. Welwood,

RE: B-2022-036, B-2022-038, and Z-2023-017 (Hunter)  
1178 Queen Street  
Roll No.: 410821000402900  
Plan 10, PARK PT Lot 1  
Geographic Town of Kincardine  
Municipality of Kincardine

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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 3.1 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). SVCA staff has also provided comments as per our Memorandum of Agreement (MOA) with the County of Bruce representing natural hazards, and water resources; and the applications have been reviewed through our role as a public body under the *Planning Act* as per our Conservation Authority Member approved Environmental Planning and Regulations Policies Manual, amended October 16, 2018.

### **Purpose**

The Consent Applications are seeking to sever the subject lands to create two new residential lots for a total of 3 lots including the retained parcel. Lot 1 (retained) and Lot 2 (severed) are each 16.1 m x 38 m, 612 m<sup>2</sup> in area. Lot 3 (severed) is irregular, has a lot area of 8731 m<sup>2</sup> with 14.06 m of frontage. All lots front onto Queen Street. The Zoning By-law Amendment Application will add special provisions to Lot 3 to implement the recommendations of the Environmental Impact Study. Also, relief is required to reduce the lot frontage of Lot 3 from 15 m to 14.06 m. The Applications were revised on July 7, 2023





to specify that the proposed severed and retained parcels will be serviced with full municipal water and sewer services.

### **Background**

SVCA previously provided comments to the applications, dated May 19, 2022. SVCA recommended that an EIS be completed to address natural heritage concerns on the property. An EIS was prepared, and SVCA staff found the EIS acceptable in November 2022.

### **Recommendation**

SVCA staff find the applications acceptable.

### **Delegated Responsibility And Advisory Comments**

#### **Natural Hazards**

The property is not affected by any natural hazard features. Therefore, the applications are consistent with the natural hazard policies of the PPS, 2020; the County of Bruce Official Plan; and the Municipality of Kincardine Official Plan.

#### **Natural Heritage**

As mentioned above, SVCA recommended that an EIS be completed to address natural heritage concerns on the property. An EIS was prepared by WSP dated November 11, 2022. SVCA staff found the EIS acceptable in November 2022.

#### **Drinking Water Source Protection**

The subject property appears to SVCA staff to be located within a Intake Protection Zone (IPZ), an area that is subject to the local Drinking Water Source Protection Plan. To confirm, please contact Drinking Water Source Protection Risk Management Official at: [rmo@sourcewater.ca](mailto:rmo@sourcewater.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.

The property is not located within the SVCA Approximate Regulated Area, and so SVCA review or permit is not required for development on the property.

### **Summary**

SVCA staff has reviewed the 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*.

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

- 1) Consistent with Section 3.1, Natural Hazard policies of the PPS.

- 2) Consistent with Bruce County OP and Municipality of Kincardine policies for natural hazards.

Thank you for the opportunity to comment. Please inform this office of any decision made with regards to the applications. We respectfully request to receive a copy of the decisions and notice of any appeals filed.

Should you have any questions, please contact the undersigned at [m.oberle@svca.on.ca](mailto:m.oberle@svca.on.ca).

Sincerely,



Michael Oberle  
Environmental Planning Technician  
Saugeen Conservation  
MO/

cc: Jennifer Prenger, Authority Member (via email)  
Bill Stewart, Authority Member (via email)



County of Bruce  
Planning & Development Department  
1243 MacKenzie Road  
Port Elgin, ON N0H 2C6  
brucecounty.on.ca  
226-909-5515



July 12, 2023

File Number: Z-2023-017

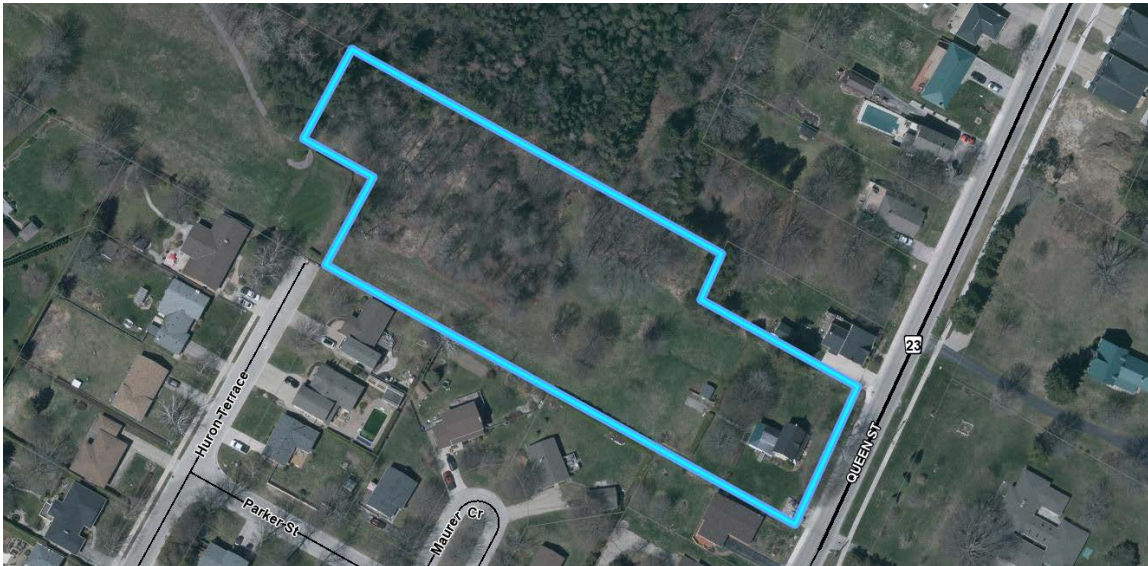
## Public Meeting Notice

You're invited:

**Public Meeting to consider Zoning By-law Amendment  
File Z-2023-017**

**August 14, 2023 at 5:00 p.m.**

A change is proposed in your neighbourhood: The Consent Applications are seeking to sever the subject lands to create two new residential lots for a total of 3 lots including the retained parcel. Lot 1 (retained) and Lot 2 (severed) are each 16.1 m x 38 m, 612 m<sup>2</sup> in area. Lot 3 (severed) is irregular, has a lot area of 8731 m<sup>2</sup> with 14.06 m of frontage. All lots front onto Queen Street. The Zoning By-law Amendment Application will add special provisions to Lot 3 to implement the recommendations of the Environmental Impact Study. Also, relief is required to reduce the lot frontage of Lot 3 from 15 m to 14.06 m. The Applications were revised on July 7, 2023 to specify that the proposed severed and retained parcels will be serviced with full municipal water and sewer services. The related consent files are B-2022-036 and B-2022-038.



1178 QUEEN ST - PLAN 10 PARK PT LOT 1  
Municipality of Kincardine (Township of Kincardine)  
Roll Number 410821000402900

## Learn more

You can view limited information about the application at <https://brucecounty.on.ca/living/land-use>. Additional information, including the supporting materials, can be provided upon request by emailing [bcplpe@brucecounty.on.ca](mailto:bcplpe@brucecounty.on.ca) or calling 226-909-5515. Information can also be viewed in person at the County of Bruce Planning Office noted above, between 8:30 a.m. and 4:30 p.m. (Monday to Friday).

The Planner on the file is: David Welwood

## Have your say

Comments and opinions submitted on these matters, including the originator's name and address, become part of the public record, may be viewed by the general public and may be published in a Planning Report and Council Agenda. Comments received after **August 1, 2023** may not be included in the Planning report but will be considered if received prior to a decision being made, and included in the official record on file.

**Before the meeting:** You can submit comments by email [bcplpe@brucecounty.on.ca](mailto:bcplpe@brucecounty.on.ca), mail, or phone (226-909-5515) if you have any questions, concerns or objections about the application. Comments will be provided to the Committee for its consideration.

## How to access the public meeting

The Public Meeting will be held in a hybrid format (virtual or in-person) at the Municipal Administration Centre located at 1475 Concession 5, Kincardine.

For information on how to participate in the public meeting, please visit the municipal website at [www.kincardine.ca/en/municipal-office/agendas-and-minutes.aspx](http://www.kincardine.ca/en/municipal-office/agendas-and-minutes.aspx) under "Agendas and Minutes."

Please contact the Municipality of Kincardine at [clerk@kincardine.ca](mailto:clerk@kincardine.ca) or 519-396-3468 if you have any questions about how to participate in the meeting.

## Stay in the loop

If you'd like to be notified of the decision of the approval authority on the proposed application(s), you must make a written request to the Bruce County Planning Department.

## Know your rights

Section 34(11) of the [Planning Act](#) outlines rights of appeal for Zoning By-law Amendment applications.

If a person or public body would otherwise have an ability to appeal the decision of the Council of municipality to the Ontario Land Tribunal but the person or public body does not make oral submissions at a public meeting or make written submissions to municipality before the by-law is passed, the person or public body is not entitled to appeal the decision.



If a person or public body does not make oral submissions at a public meeting, or make written submissions to the municipality before the by-law is passed, the person or public body may not be added as a party to the hearing of an appeal before the Ontario Land Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

For more information please visit the Ontario Land Tribunal website at <https://olt.gov.on.ca/appeals-process/>.

# Site plan

