



## Planning Report

**To:** Municipality of Kincardine Council

**From:** Julie Steeper, Planner

**Date:** August 14, 2023

**Re:** Zoning By-law Amendment Application - Z-2023-033 (Stewart)

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### Recommendation:

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

That Zoning By-law Amendment Z-2023-033 be approved as attached and the necessary by-law be forwarded to Council for adoption.

### Summary:

The purpose of the application is to facilitate a surplus farm dwelling severance of a +/- 0.8 ha lot from a +/- 40 ha agricultural parcel at 5772 Highway 9. An amendment to the Zoning By-law is required to rezone the lands from General Agriculture (A1) to General Agriculture Special (A1-a) to prevent development of a future dwelling for the retained farm parcel. A holding provision requiring an Archaeological Assessment for the lands containing high archaeological potential is proposed. The Environmental Protection (EP) zone will remain unchanged.

The related consent file (B-2023-035) will be considered by the County at a later date.

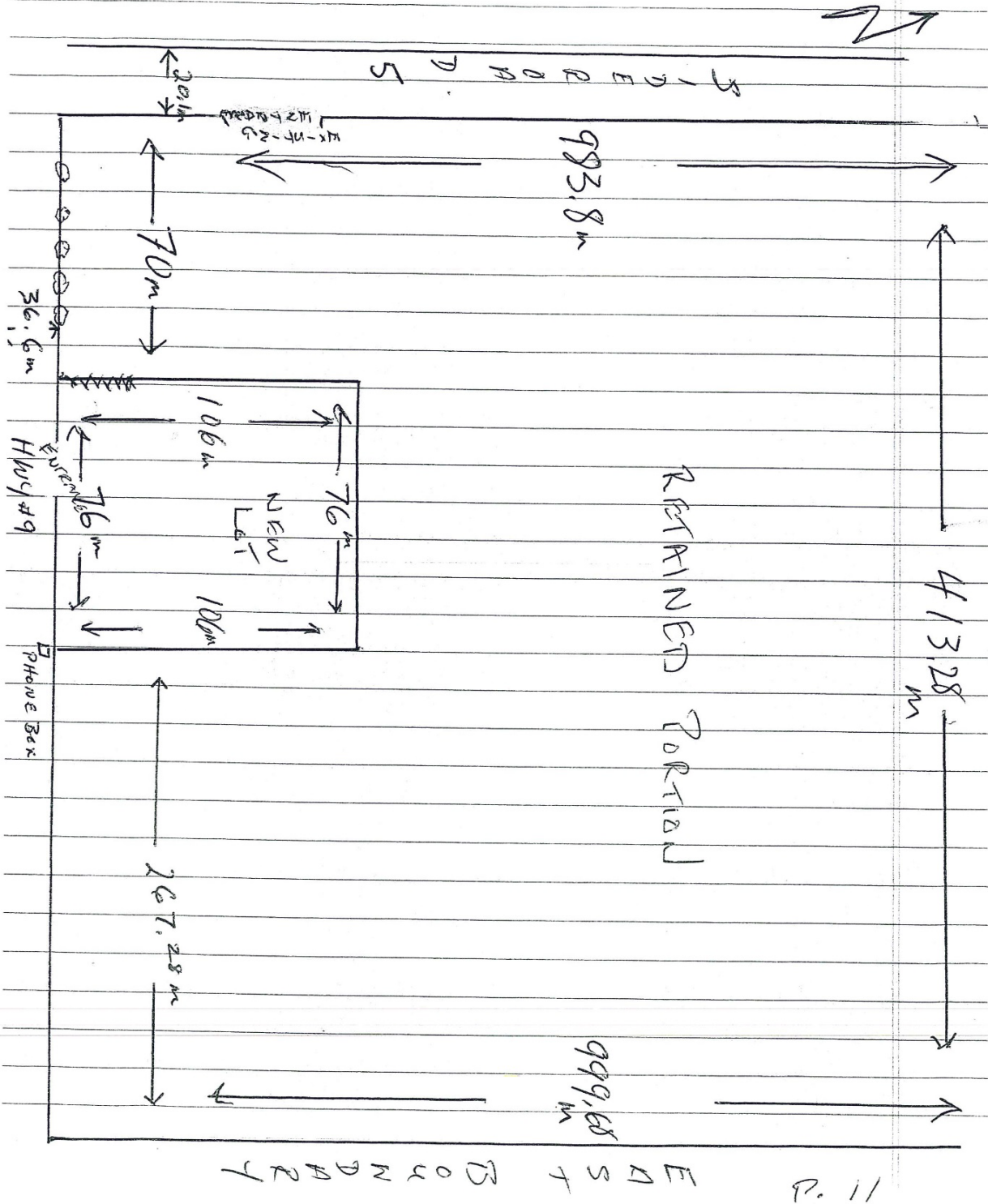
The property is located east of Kincardine as well as Highway 21, on the north side of Highway 9. The site is surrounded by agricultural lands.

# Airphoto

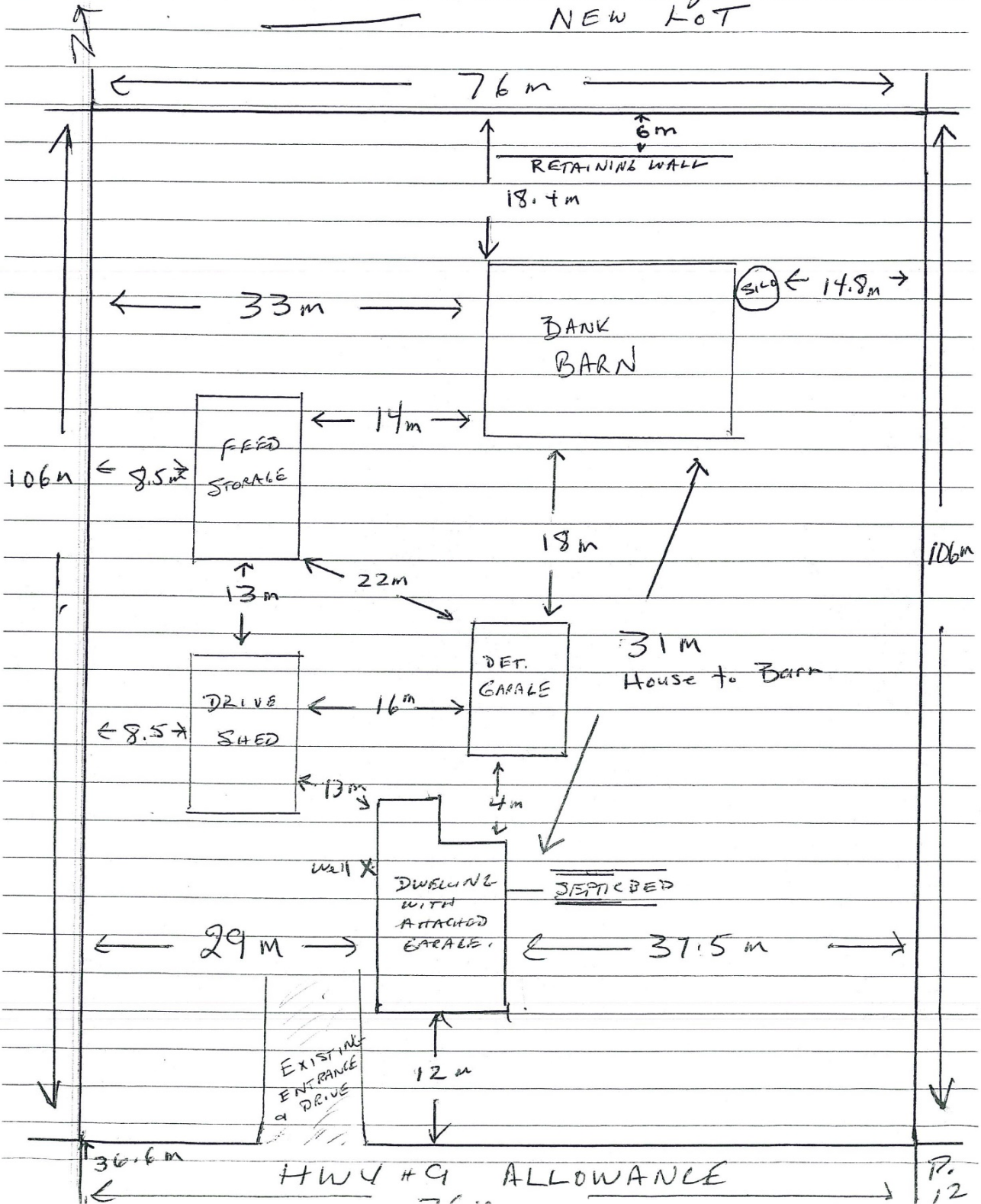


Site Plans

STEWART CONSENT - RE-ZONING APPLICATION, MARCH 2023



STEWART CONSENT/RE-ZONING A/D/P  
 Set back 3 - 5772 Hwy #9 March 2023  
 NEW LOT



HWY #9 ALLOWANCE

P. 12



## 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 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 in the Bruce County Official Plan. To meet the Official Plan 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 Official Plan 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 applicant meets the definition of a bona fide farmer. They own multiple properties in the area for agricultural purposes. The existing single detached dwelling, barn, sheds, and garage are surplus to the purchasers needs. The Zoning By-law Amendment, included with this report, restricts a new residence on the retained farm parcel and includes a holding (H1) provision requiring an Archaeological Assessment for the lands containing high archaeological potential. As such, the proposal meets all the criteria established in the PPS and County Official Plan for agricultural severances.

## Appendices

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

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



### Local Zoning Map (Zoned General Agriculture 'A1', and Environmental Protection 'EP')



## Agency Comments

Municipality of Kincardine, Chief Building Official:

1 - The retained parcel will have field access through an existing unopened road allowance and will require a Limited Servicing Agreement.

2 - The severed parcel will encompass existing farm structures and be Zoned as a "Non-Farm" lot which restricts Agricultural uses.

Municipality of Kincardine, Fire Chief: No comments.

Municipality of Kincardine, Manager of Environmental Services: Only comment would be that this property has the Holtby municipal drain run through it and future maintenance to the drain could require funding from both parties.

Municipality of Kincardine, Director of Infrastructure and Development: No comments.

Historic Saugeen Metis (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: We have reviewed the documents concerning the noted Application and have no comments or concerns at this time.

Ministry of Transportation: MTO have reviewed municipal applications B-2023-035 & Z-2023-033. The proposal has been considered in accordance with the requirements of the Public Transportation and Highway Improvement Act, MTO's Access Management Policy and all related policies. The following outlines MTO's comments:

The subject property is located adjacent to Highway 9 and is within MTO's Permit Control Area (PCA), and as such, MTO review, approval and permits are required before any development activities take place on-site (demolition, grading, construction or alteration to the site).

The following are comments in regard to the proposed consent:

- Upon registration of the consent, MTO will permit one access to the proposed severed parcel and one access to the proposed retained parcel. MTO Entrance Permits will be required.
- MTO will not permit any future development on the retained parcel as it shall be used for agricultural purposes only.

Application for permits can be made by clicking on the following link:  
[www.hcms.mto.gov.on.ca](http://www.hcms.mto.gov.on.ca) If there are any questions, please let me know.

Saugeen Valley Conservation Authority: The applications are generally acceptable to SVCA staff and their comments are provided in full below.

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

August 4, 2023

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

ATTENTION: Julie Steeper, Planner

Dear Ms. Steeper,

RE: Z-2023-033 and B-2023-035 (Stewart)  
57405772 Highway 9  
Roll No.: 410821000117300  
Lot 11 to 12 Concession 1 NDR  
Geographic Township 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), dated September 2019, with the County of Bruce representing natural hazards, and water resources; and the applications have also been reviewed through our role as a public body under the *Planning Act* as per our CA Member approved Environmental Planning and Regulations Policies Manual, amended October 16, 2018.

### **Purpose**

The purpose of the application is to facilitate a surplus farm dwelling severance of a +/- 0.8 ha lot from a +/- 40 ha agricultural parcel. An amendment to the Zoning By-law is required to facilitate the severance.

### **Recommendation**

The applications are generally acceptable to SVCA staff.

### **Delegated Responsibility and Advisory Comments - Natural Hazards**

The natural hazard features affecting the property are the North Penetangore River, and any floodplain and valley slope, as well as any wetlands/swamps located within the floodplain. SVCA staff note that



the western portion of the property is within the study area for the Community of Kincardine Floodplain mapped area. The natural hazard features are represented as EP zone in the Municipality of Kincardine zoning by-law. It appears that SVCA hazard mapping is represented in the current EP zone.

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

Section 3.1 of the PPS, 2020 states in part that development shall generally be directed to areas outside of: b) hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding and erosion hazards; and c) hazardous sites. It is the opinion of SVCA staff that the applications generally comply with Section 3.1. of the PPS, 2020.

### **County of Bruce OP Policies**

Section 5.8 of the County of Bruce OP generally directs development to be located outside of Hazardous Land Area. It is the opinion of SVCA staff that the applications appear to be consistent with the policies of the Bruce County 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 Drinking Water Source Protection Risk Management Official.

### **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 CA Act, 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 any SVCA Approximate Screening Area, however, the entire northerly part of the parcel to be retained is within the SVCA Approximate Screening Area/SVCA Approximate Regulated Area because of the North Penetangore River, and its related flood and erosion hazards; and small areas in the south of the parcel to be retained are within the SVCA Approximate Screening Area because of the closed/tiled sections of Holtby Drain. The SVCA Approximate Screening Area and SVCA Approximate Regulated Area are associated with Ontario Regulation 169/06. As such, development and/or site alteration within the SVCA Approximate Screening Area/SVCA Approximate Regulated Area may require permission from SVCA, prior to carrying out the work.

“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 where the SVCA Approximate Screening Area/SVCA Approximate Regulated Area is located associated with our Regulation on the property, please refer to the SVCA’s online mapping program, available via the SVCA’s website at <http://eprweb.svca.on.ca>. As mentioned above, the SVCA Approximate Screening Area/SVCA Approximate Regulated Area includes the North Penetangore River, and its floodplain and valley; and three branches of Holtby Drian, a closed/tiled drain that is located in the southern portion of the property, and an offset distance from those features.

## 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*.

The applications are generally acceptable to the SVCA.

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, 2020 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 the County of Bruce with regard to the applications. We respectfully request to receive a copy of the decisions and notices of any appeals filed. Should you have any questions, please contact the undersigned.

Sincerely,



Michael Oberle  
Environmental Planning Technician  
Saugeen Conservation  
MO/

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