



## Planning Report

**To:** Municipality of Kincardine Council

**From:** David Welwood, Consultant Planner

**Date:** December 13, 2023

**Re:** Zoning By-law Amendment Z-2023-078 (Eby)

---

### Recommendation:

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

That Council approve Zoning By-law Amendment Application Z-2023-078 for Jeff and Sherri Eby for a portion of Concession 11, Lot 5, in the geographic Township of Bruce in the Municipality of Kincardine.

### Summary:

The purpose of the application is to facilitate the severance of a +/- 0.8 ha surplus farm dwelling lot from a +/- 38.2 ha agricultural parcel at 4073 Highway 21 (Bruce Township), in the Municipality of Kincardine. The applicants farm approximately 135.11 hectares of land in the former Township of Bruce including the neighbouring parcel to the north of the retained lot. The Zoning By-law Amendment applies to the proposed retained lot, and will prohibit residential uses, recognize the reduced lot size for the retained lot, and place a Holding provision on lands having high archaeological potential. A small portion at the northern edge of the retained lot will continue to be zoned Environmental Protection (EP). If approved, the effect of the application would facilitate a surplus farm dwelling severance from the subject lands.

The related consent file (B-2023-078) will be considered by the County at a later date.

The property is located north of Inverhuron and south of North Bruce, on the west side of Highway 21, and the north side of Concession Road 10. The site is surrounded by other agricultural uses.

## Airphoto



**Additional Lands Owned by Applicant - Part Lot 5, Conc 12 (+/- 20.23 ha)**

**Proposed Lot Dimensions**  
+/- 1,001 m

**Retained Lot** JE  
**Lot Area:** +/- 38.2 ha N

#1 = House. 15m x 9.75m.  
#2 = shed. 6m x 12m.  
#3 Septic Bed 3m x 9m.  
● Septic Tank. 2m dia.  
1m From House.

Land surrounding is Agricultural owned by Jeff & Sherri Eby

**Severed Lot**  
**Lot Area:** +/- 8,132 m<sup>2</sup>

+/- 390.14 m

Cor #10

Diagram showing lot dimensions and features:  
- Total width: 176m  
- Total length: 749m  
- Severed Lot width: 4m  
- Lane width: 12.5m  
- Lane length: 30.2m  
- Well location: 12.5m from lane, 4m from house  
- House dimensions: 15m x 9.75m  
- Shed dimensions: 6m x 12m  
- Septic bed dimensions: 3m x 9m  
- Septic tank diameter: 2m  
- Distance from house to septic tank: 1m

### Proposed Lot Dimensions

 $\pm 1,001$  m

Retained Lot

**Lot Area: +/- 38.2 ha**

41 - House. 15m x 9.75m.

#2 = shed. Gr. x 12m

#3 c.atic Bed 3M x 9M.

- Septic Tank. 2m dia. 1m From House.

Land Surrounding is Agricultural owned by Jeff & Sherri Eby

$\pm 390.14 \text{ m}$

Cor #10

Severed Lot

Lot Area: +/-8,132 m2

176 m.

Conclusion:

Law #2

W. B. L.

107 M

76m

—

214

↓ 12th

6th Feb - Sun

1-

100

—

1045

10

---

---

↓

using —

---



## Image of Existing Structure



## 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 in a prime agricultural area 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 in the BCOP. A very small area at the northwestern part of the subject property is designated Hazard Land Area. 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 require existing surplus dwellings to be habitable at the time of application. A site visit by County staff was conducted on October 18, 2023. The dwelling is habitable according to the home inspection report submitted by the proponent on November 18, 2023.

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 storage structure 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 proposed retained parcel is +/-38.2 ha in size. The applicants are proposing to sever a +/- 0.8 ha severed parcel having a frontage of +/- 76 metres along Highway 21 containing the existing residential dwelling, shed, well and septic system. It is the opinion of County staff that this proposal maintains the overall intent of the agricultural policies. The severance of the dwelling will not negatively impact the viability of the farming operation on the retained parcel. 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.

### Archaeological Potential

Portions of the retained farm lot are considered to have high archeological potential due to the presence of a watercourse running roughly near the northwestern corner of the property. A holding provision (H1) on portions of the retained parcel 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 retained lot will be rezoned from General Agriculture (A1) to General Agriculture Special (A1-hq) and General Agricultural Special Holding (A1-hq-H1) with the following provisions:

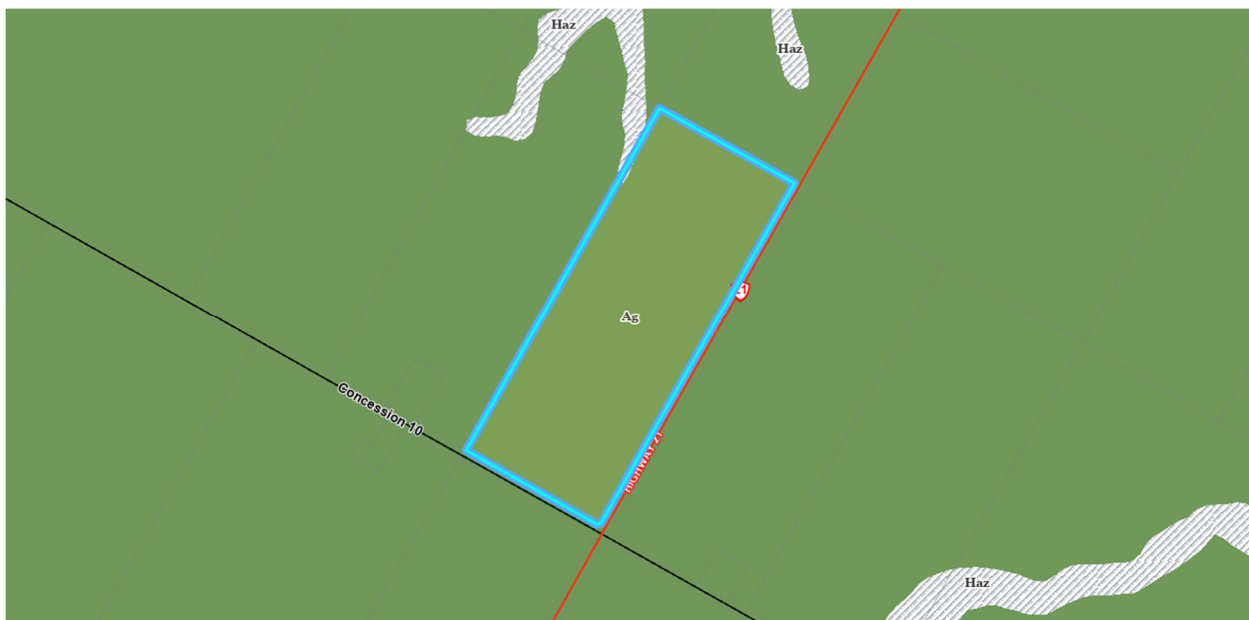
- The lot shall have a minimum lot area of 38 hectares; and
- No residential buildings or structures shall be permitted.

The Environmental Protection (EP) zone will remain unchanged.

### Appendices

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

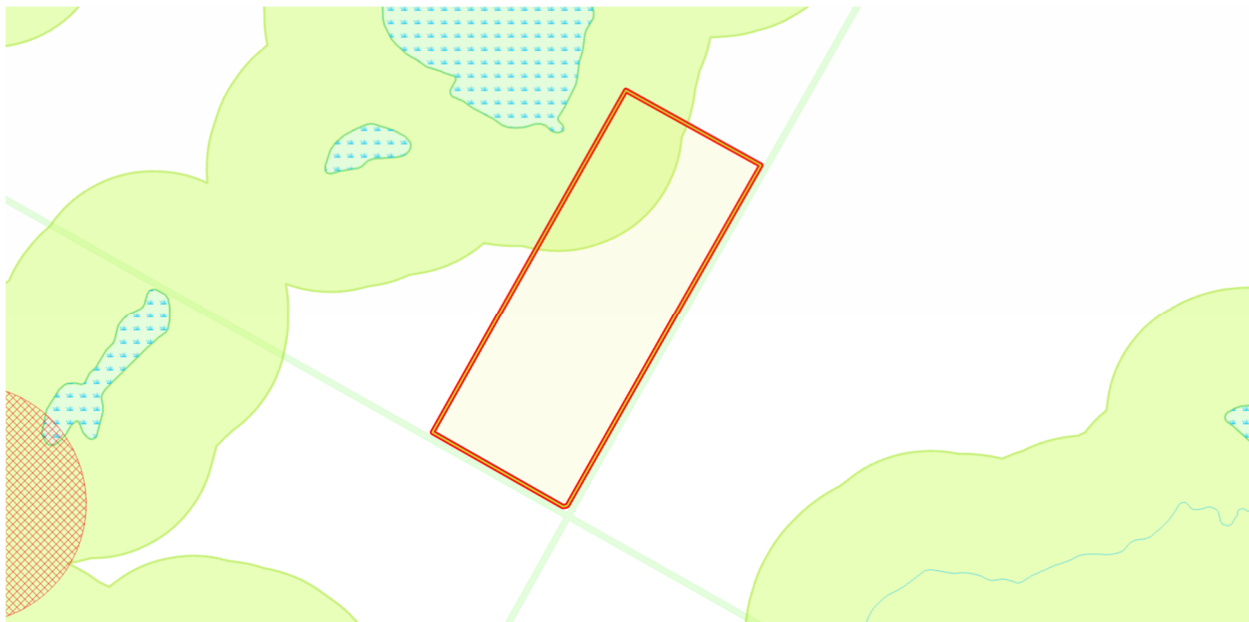
### County Official Plan Map (Designated Agricultural Areas, Hazard Land Areas)



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



## Archaeological Potential



## List of Supporting Documents and Studies

- Site Plan, Updated September 18, 2023
- Home Inspection Report, dated November 18, 2023



## **Agency Comments**

The application was circulated to the required agencies and all properties within 120 metres of the subject property on October 12, 2023, the following comments were received:

Municipality of Kincardine: No comments or concerns.

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.

Ministry of Transportation (MTO): See attached comments in full.

## **Public Comments**

None at time of writing.

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

October 17, 2023

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

ATTENTION: David Welwood, Planner

Dear Ms. Steeper,

RE: B-2023-078 Z-2023-078 (Eby)  
4073 Highway 21  
Roll No. 410826000306700  
Lots 5, Concession 11  
Geographic Bruce Township  
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

The applications propose to sever a +/- 0.8 ha parcel of land with lot frontage of +/- 76 m along Highway 21 containing an existing farmhouse and a shed. The retained parcel has a lot area of +/- 38.2 ha, a lot frontage of +/- 390.14 m along Concession Road 10 and is used for agriculture. The retained parcel will be re-zoned General Agriculture Special (A1-XX) and General Agriculture Special Holding (A1-XX-H1) to prohibit residential uses, recognize the reduced lot size for the

retained lot, and place a Holding provision on lands having high archaeological potential. The related Zoning file is Z-2023-078.

## **Recommendation**

The applications are acceptable to SVCA staff.

## **Delegated Responsibility and Advisory Comments**

### **Natural Hazards**

SVCA hazard mapping indicates a natural hazard feature affecting the northwest section of the farm property that is adjacent to some woods to the west. The EP Zone in the Municipality of Kincardine Zoning By-law and the Hazard Land Designation in the mapping generally coincide with the SVCA Hazard Land. The proposed farm use will not be impacted by this area of concern.

The following is a summary of Provincial and County 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).

Based on the site plan submitted with the application, and as part of SVCA's regulatory/permit review process, it is the opinion of SVCA staff that safe access and egress to the subject property is available in accordance with SVCA policies.

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

Section 5.8 of the Bruce County OP generally directed development to be located outside of Hazardous Land Area.

It is the opinion of SVCA staff that the application is consistent with the policies of the PPS (2020), and 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 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.

A small area in the northwestern portion of the subject property is within the SVCA 'Approximate Screening Area' associated with Ontario Regulation 169/06. As such, development and/or site alteration within this area requires the 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 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**

Development or alteration including construction, reconstruction, conversion, grading, filling or excavation, as well as agricultural tile drainage, proposed within the SVCA Approximate Screening Area may require permission (SVCA Permit) prior to the works commencing.

### **Summary**

SVCA staff have 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. Additionally, we have screened the

October 17, 2023

Page 4 of 4

proposal 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 the County of Bruce with regard to the 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,

Jason Dodds

Environmental Planning Technician

Saugeen Conservation

JD/

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

**From:** [Pegelo, Jessica \(MTO\)](#)  
**To:** [Klarika Hamer](#); [Bruce County Planning - Lakeshore Hub](#)  
**Cc:** [Coreena Smith](#); [David Welwood](#)  
**Subject:** RE: Request for Agency Comments B78 Z78 Eby  
**Date:** Tuesday, October 31, 2023 12:41:53 PM  
**Attachments:** [image001.png](#)

---

**\*\* [CAUTION]:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

The proposed consent (B-2023-078) and zoning by-law amendment (Z-2023-078) applications have been reviewed in accordance with the requirements of the *Public Transportation and Highway Improvement Act*, MTO's Highway Access Management Policy and all related policies.

The subject property is located 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).

MTO are supportive of the proposed zoning by-law amendment and consent application subject to the following:

#### MTO Comments

- In the case of the subject property, MTO will permit one access to Highway 21 for the proposed severed parcel.
- MTO require that any existing access to Highway 21 from the proposed retained parcel be physical removed and restored to the satisfaction of MTO.
- MTO require that all access to the proposed retained parcel be taken off of Concession 10.
- MTO require that the access on Concession 10 be located a minimum of 85m from the end radius of Highway 21.
- MTO require that a 0.3m reserve be created along the frontage of Highway 21 on the proposed retained parcel.
- MTO require a draft reference plan, draft deeds and draft certification of title be submitted to MTO for its review and approval prior to depositing the reference plan or registration of the deeds.

#### MTO Conditions

-

- That the property owner obtain an MTO Encroachment permit for the removal of any existing access to Highway 21 from the proposed retained parcel.



- That a 0.3 m reserve extending across the entire highway frontage (with the exception of the proposed severed parcel) be conveyed by deed to the Ministry of Transportation. (All reserves by deed must be free and clear of all mortgages, liens, and encumbrances.)

### General Comments

- Upon registration of the consent, an MTO Entrance Permit will be required to define ownership and permitted use(s) of the proposed severed parcel.

Upon registration of the consent, an MTO Building and Land Use Permit will be required to define ownership and permitted use(s) of the proposed severed parcel including the location of the access.

- If there are any questions, please let me know.

Kind Regards,

Jessica Pegelo  
Ministry of Transportation  
Corridor Management Planner  
Highway Corridor Management Section  
659 Exeter Rd. London, ON N6E 1L3  
Telephone: 519-379-4397 Fax: 519-376-6842  
E-mail: [jessica.pegelo@ontario.ca](mailto:jessica.pegelo@ontario.ca)



---

**From:** Klarika Hamer <KHamer@brucecounty.on.ca>  
**Sent:** October 12, 2023 11:48 AM  
**To:** Bruce County Planning - Lakeshore Hub <bcplpe@brucecounty.on.ca>  
**Cc:** Coreena Smith <CJSmith@brucecounty.on.ca>; David Welwood <DWelwood@brucecounty.on.ca>  
**Subject:** Request for Agency Comments B78 Z78 Eby

**CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.**

Good morning,

Please see the attached Application, Site Plan, Request for Agency Comments, Consent Application Notice and Public Meeting Notice for Consent file B-2023-078 and Zoning By-law Amendment file Z-2023-078.

SVCA – Please be advised that \$580.00 has been collected on behalf of the SVCA for the review of this Application.

Jeff – the Development Signs that are required to be posted at the property are being sent to you via courier. Please post the signs by October 25, 2023. Once posted, please email a picture of the posted sign to [bcplpe@brucecounty.on.ca](mailto:bcplpe@brucecounty.on.ca).

Kind regards,

**Klarika Hamer**  
Applications Technician  
Planning and Development  
Corporation of the County of Bruce

Office: 226-909-1601  
Direct: 226-909-3359  
[www.brucecounty.on.ca](http://www.brucecounty.on.ca)



Individuals who submit letters and other information to Council and its Committees should be aware that any personal information contained within their communications may become part of the public record and may be made available through the agenda process which includes publication on the County's website.

If you have received this communication in error, please notify the sender immediately and delete all copies (electronic or otherwise). Thank you for your cooperation.

If you feel that this email was commercial in nature and you do not wish to receive further electronic messages from the County of Bruce, please click on the following link to unsubscribe: [Unsubscribe](#). Please be advised that this may restrict our ability to send messages to you in the future.



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



November 20, 2023

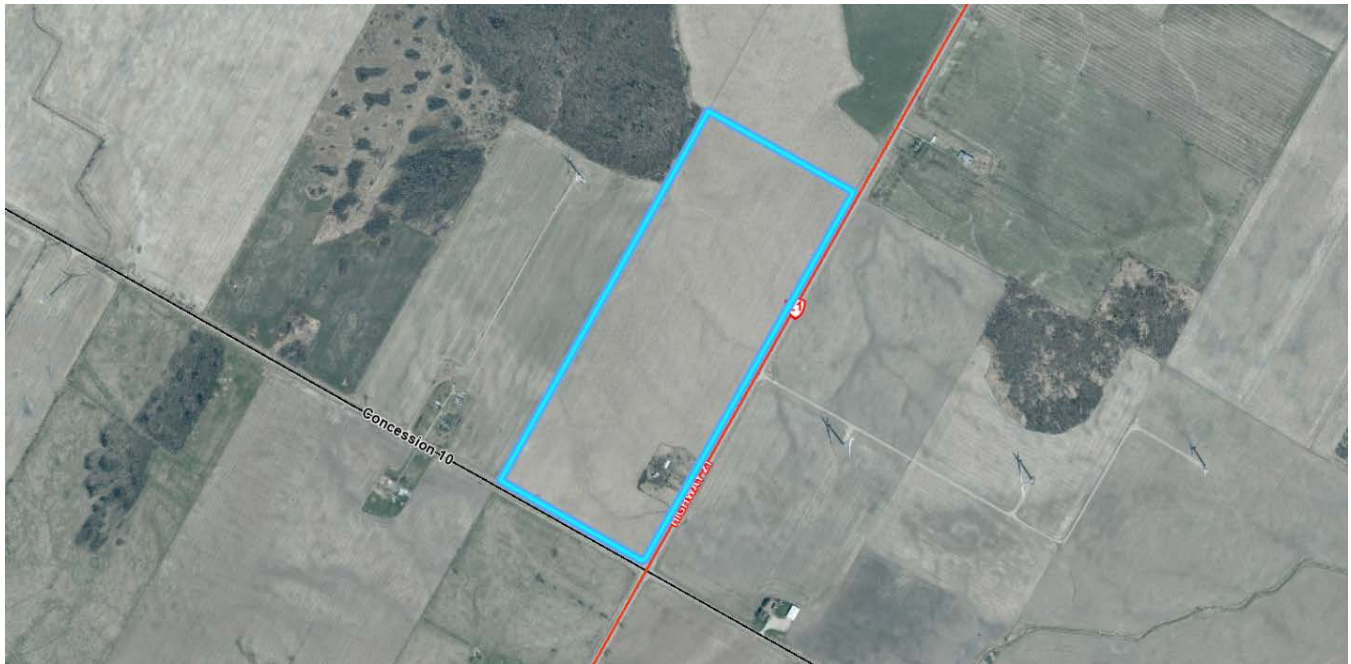
File Number: Z-2023-078

## Public Meeting Notice

**You're invited: Public Meeting to consider Zoning By-law Amendment File Z-2023-078**

**December 13, 2023 at 5:00 p.m.**

A change is proposed in your neighbourhood: The applications propose to sever a +/- 0.8 ha parcel of land with lot frontage of +/- 76 m along Highway 21 containing an existing farmhouse and a shed. The retained parcel has a lot area of +/- 38.2 ha, a lot frontage of +/- 390.14 m along Concession Road 10 and is used for agriculture. The retained parcel will be re-zoned General Agriculture Special (A1-XX) and General Agriculture Special Holding (A1-XX-H1) to prohibit residential uses, recognize the reduced lot size for the retained lot, and place a Holding provision on lands having high archaeological potential. The related consent file is B-2023-078.



4073 HIGHWAY 21 - CON 11 LOT 5  
Municipality of Kincardine (Bruce Township)  
Roll Number 410826000306700



## Learn more

Additional information about the application is available online at <https://brucecounty.on.ca/living/land-use>. 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 **December 4, 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

Additional Lands Owned by Applicant - Part Lot 5, Conc 12 (+/- 20.23 ha)

