



Planning Report

To: Municipality of Kincardine Council

From: Jake Bousfield-Bastedo, Intermediate Planner

Date: June 12, 2024

Re: Zoning By-law Amendment Z-2024-011 (Oudshoorn)

Recommendation:

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

That Council approve Zoning By-law Amendment Application Z-2024-011 for Paul and Tarynne Oudshoorn and the necessary by-law be forwarded to Council for adoption.

Summary:

This application proposes to amend the Municipality of Kincardine Zoning By-law to facilitate consent application B-2024-012, which is being considered separately at a later date by the County of Bruce. The proposal would sever a +/- 0.75 ha surplus farm dwelling lot with existing dwelling and outbuildings from an existing +/- 60.3 ha parcel at 5031 Highway 9 near Bervie. The proposed amendments would place a holding provision on lands having high archaeological potential and prohibit residential uses on the retained lot. Portions of the retained lot will continue to be zoned Environmental Protection.

Airphoto



Site Plan

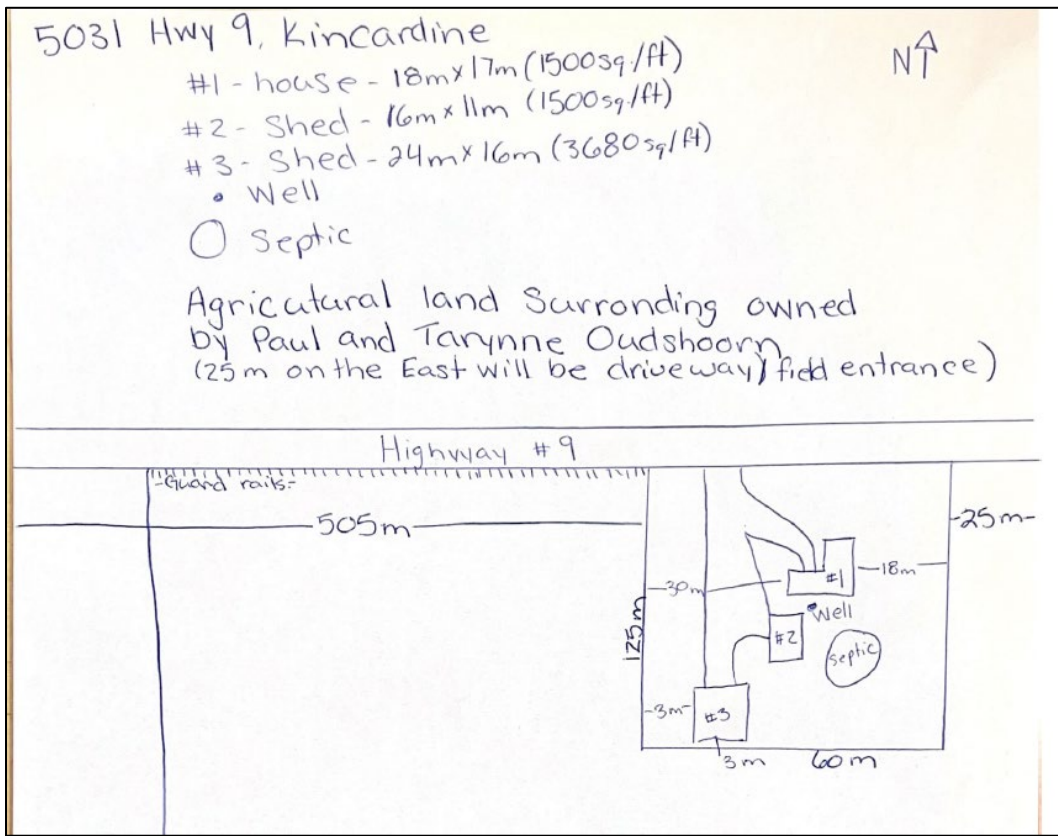


Image of Existing Dwelling



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 and planning policy sections.

Surplus Farm Dwelling Severance

The only type of residential severance permitted on agricultural lands in the Provincial Policy Statement (PPS) is for a residence surplus to a farming operation as a result of farm consolidation.

The Bruce County Official Plan (BCOP) includes the following criteria for assessing surplus farm dwelling severances:

1. The owner of the lands to be severed is a 'bona fide farmer' and must:

- a. Own land and farm the lands on which the surplus dwelling is proposed to be severed from;
 - 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;
2. The lot proposed for the surplus residence must be limited in area (i.e., of sufficient size to accommodate the surplus residence and any accessory buildings);
 3. The remnant agricultural lands shall be rezoned to prohibit the future residential development of any type on the agricultural lands;
 4. Minimum Distance Separation (MDS I) formula requirements are to be met for the proposed severed lot if livestock facilities or anaerobic digesters exist on the retained farmlands; and,
 5. The existing surplus dwelling/residence is habitable at the time of application.

The owner is a bona fide farmer who currently owns and farms the subject lands along with roughly 200 ha within the County of Bruce.

The severed lot will be limited to a size of 0.75 hectares to accommodate the existing dwelling, outbuildings, hydro, sewage and water services. The existing westerly barn is proposed to be demolished as it is no longer functional.

The remnant agricultural lands are proposed to be rezoned to prohibit future residential development through this proposal.

The only facility capable of housing livestock within the vicinity of the proposed severed parcel is the existing westerly barn proposed to be demolished. Given that the proposed new lot line would situate the barn on the retained parcel, the barn will need to be demolished to meet MDS setbacks. A condition for the consent has been drafted to ensure that the demolition has occurred prior to the consent being finalized.

The existing dwelling is currently habitable.

Given the above, staff are of the opinion that the proposal is consistent with the Surplus Farm Dwelling Severance policies of the BCOP and the PPS.

Natural Hazards

Natural hazard features affecting portions of the property include potential flooding and erosion hazards from the Penetangore River and its tributaries.

The proposed application is consistent with the natural hazard policies of the PPS and conform to those of the BCOP, as no new development is proposed. Those portions of the retained lot impacted by natural hazards will continue to be designated Hazard Land Area and zoned Environmental Protection (EP).

Areas of the proposed severed and retained parcels are within the Saugeen Valley Conservation Authority (SVCA) Approximate Screening Area. The applicant is advised that

future development and/or site alteration within the SVCA Approximate Screening Area may require permission from SVCA prior to carrying out any work on the subject lands.

Natural Heritage

Natural Heritage features on and adjacent to the subject lands include fish habitat associated with the Penetangore river and its tributaries. No new site alteration or construction is proposed as a result of this application; as such, no impacts are anticipated to natural heritage features.

Cultural Heritage

The subject property is noted as having high archaeological potential given the proximity to a watercourse. The policies within the PPS and the BCOP prohibit development and site alteration on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved. The BCOP encourages consultation with First Nation communities, including the Saugeen Ojibway Nation, on areas of concern related to new development proposals that include the proper identification of archaeological resources.

As this proposal does not involve the construction of new structures or site alteration, an archaeological assessment is not recommended at this time. The Zoning By-law amendment includes a holding provision to ensure that future development is required to meet relevant policies for archaeology.

Transportation

The subject property is located just west of the hamlet of Bervie on Highway 9, a provincial Highway. As such, the proposal must be consistent with Ministry of Transportation (MTO) policies. Currently, the property is served by one primary access to the dwelling, and a second farm access toward the western boundary of the property. The applicant has indicated that the existing westerly access would not suffice as access to the retained parcel as it is not suitable for modern farming implements. The majority of the frontage of the retained is limited by hazard areas associated with a watercourse, so the lot configuration has been proposed to allow a small frontage east of the severed parcel (roughly 25m wide) where a new access can be created. MTO has noted that this new access can be supported provided appropriate permits are obtained and the existing westerly access is decommissioned. A condition for the consent has been drafted to ensure that the appropriate MTO permits are obtained prior to the consent being finalized.

Zoning By-law

The subject lands are zoned General Agricultural (A1) and Environmental Protection (EP) in the Zoning By-law for the Municipality of Kincardine. The proposed retained and severed lots meet the frontage and area requirements for a farm lot and non-farm lot, respectively. Areas of high archaeological potential are proposed to amended to include a holding provision to ensure any future development is subject to archaeological review. The

proposed zoning for the retained lot would prohibit residential development. The Environmental Protection (EP) zone has not changed.

Appendices

- County Official Plan Map
- Local Zoning Map
- Agency Comments
- Public Notice

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



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



The application was circulated to the required agencies and all properties within 120 metres of the subject property on May 15, 2024 the following comments were received:

Agency Comments

Historic Saugeen Métis: No comments or concerns.

Saugeen Valley Conservation Authority: Provided in full below.

Ministry of Transportation: Provided in full below.

Municipality of Kincardine: No comments or concerns.

Public Comments

None at time of writing.

SENT ELECTRONICALLY ONLY: JBousfield-Bastedo@brucecounty.on.ca and bcplpe@brucecounty.on.ca

May 31, 2024

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

ATTENTION: Jake Bousfield-Bastedo, Planner

Dear Mr. Bousfield-Bastedo,

RE: Application for Consent B-2024-011 and Zoning By-Law Amendment Z-2024-011 (Oudshoorn)
5031 Highway 9
Roll No.: 410821000112800
Part Lots 45 to 47, Concession 1 SDR
Geographic Township of Kincardine
Municipality of Kincardine

Saugeen Valley Conservation Authority (SVCA) staff has reviewed the above-noted proposals 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 41/24 (SVCA's Prohibited Activities, Exemptions and Permits Regulation). SVCA staff has 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 our CA 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 purpose of the consent application is to sever a +/- 0.75 ha parcel of land with a lot frontage of +/- 60 m along Hwy 9 containing an existing farmhouse and outbuildings. The proposed retained parcel has a lot area of +/- 59.5 ha with a lot frontage of +/- 530 m along Hwy 9 and is used for agriculture.

The purpose of the proposed zoning by-law amendment application is to place a holding provision on lands having high archaeological potential and prohibit residential uses on the retained farm lot.

Recommendation

The proposed application for consent and zoning by-law amendment application are generally acceptable to SVCA staff.

Natural Hazards

The natural hazard features of concern on the property include wetlands/swamps, a tributary of the Penetangore River, any floodplain associated with the wetlands/swamps and the watercourse, and the valley slope. SVCA Hazardous Land mapping shows areas of the property to be low in elevation associated with the floodplain of the Penetangore River and wetlands/swamp land.

It is SVCA staff's opinion 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.

Provincial Policy Statement – Section 3.1

Section 3.1.1 of the PPS, 2020 states in part that development shall generally be directed to areas outside of hazardous lands and hazardous sites. Based on the plan submitted with the proposal, the proposal would be consistent with Section 3.1.1 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 the Hazard Land designated area. It is the opinion of SVCA staff that the applications comply with the County of Bruce OP.

Drinking Water Source Protection

The property appears to SVCA staff to not be located within an area that is subject to the local Drinking Water Source Protection Plan.

SVCA Regulation 41/24

SVCA staff has reviewed the proposal as per our responsibilities as a regulatory authority under Ontario Regulation 41/24 (SVCA's Prohibited Activities, Exemptions and Permits 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, or unstable soil or bedrock are not affected. SVCA also regulates the alteration to or interference in any way with a watercourse or wetland.

Portions of the property are within the Approximate Screening Area associated with the SVCA's Prohibited Activities, Exemptions and Permits Regulation (Ontario Regulation 41/24). This Regulation is in accordance with Section 28 of the *Conservation Authorities Act* R.S.O, 1990, Chap. C. 27, and requires that a person obtain the written permission of the SVCA prior to any "development" within a Regulated Area or alteration to a wetland or watercourse.

For this property, the SVCA Approximate Screening Area includes wetlands/swamps, a tributary of the Penetangore River, any floodplain associated with the wetlands/swamps and the watercourse, the valley slope, and an offset distance from these features.

To determine where the SVCA Approximate Screening 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>. Should you require assistance, please contact our office directly.

Permission for Development or Alteration

If development or alteration including construction, reconstruction, conversion, grading, filling or excavation, including agricultural tile drainage, is proposed within the SVCA Approximate Screening Area, associated with our Regulation on the property, the SVCA should be contacted, as permission may be required.

Based on the plan submitted with the applications, portions of both the parcel to be severed and the parcel to be retained are within the SVCA Approximate Screening Area associated with Ontario Regulation 41/24. As such, development and/or site alterations within the SVCA Approximate Screening Area may require permission from SVCA prior to work commencing.

Summary

SVCA staff has reviewed this proposal 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:

- 1) Consistency with Section 3.1, Natural Hazard policies of the PPS has been demonstrated.
- 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 with regard to the proposal. Should you have any questions, please contact the undersigned.

Sincerely,



Vivian Vanceeder
Environmental Planning Technician
Saugeen Conservation
VV/

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

Jessica Pegelo, (Regional Planner (CMP/SPM)) 9:13 P.M.

To Klarika Hamer <bcplpe@brucecounty.on.ca>

MTO-LD-2024-31L-000192

Zoning By-Law Amendment (ZBA) Consent (i.e severance/easement) Final correspondence

MTO have completed a review of the proposal to sever a +/- 0.75 ha parcel of land with a lot frontage of +/- 60 m along Hwy 9 containing an existing farmhouse and outbuildings. The proposed retained parcel has a lot area of +/- 59.5 ha with a lot frontage of +/- 530 m along Hwy 9 and is used for agriculture. The Zoning By-law Amendment would place a Holding provision on lands having high archaeological potential and prohibit residential uses on the retained farm lot.

The proposal has been considered in accordance with the requirements of the *Public Transportation and Highway Improvement Act*, MTO's Highway Access Management Policy and all related policies. The following outlines our comments:

The subject property is located adjacent to Highway 9 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).

MTO are supportive of the proposal subject to the comments and conditions:

Conditions

MTO require that the existing field entrance at the westerly boundary of the proposed retained parcel be removed and the ditch restored to the satisfaction of MTO. An MTO Encroachment permit will be required. Application can be made using the following link:
www.hcms.mto.gov.on.ca

Comments

Once the above condition has been cleared and upon registration of the consent, the property owner(s) of the severed parcel will be required to obtain an MTO Entrance Permit to define ownership and permitted uses on-site.

Once the above condition has been cleared and upon registration of the consent, the property owner(s) of the retained parcel will be required to obtain an MTO Entrance Permit to construct a new field entrance at the eastern boundary of the proposed retained parcel, to define ownership and permitted uses on-site.

Access to the proposed retained parcel is required to be located a minimum of 30m from any existing accesses to the highway.

Any future development on the proposed severed and/or retained parcels will require MTO review, approval and permits.

Upon registration, applications for MTO permits can be made by clicking on the following link:
www.hcms.mto.gov.on.ca

If there are any questions, please let me know.

Kind Regards,
Thank you,
Jessica Pegelo
Corridor Management Planner
Highway Corridor Management
Ministry of Transportation of Ontario



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



May 15, 2024

File Number: Z-2024-011

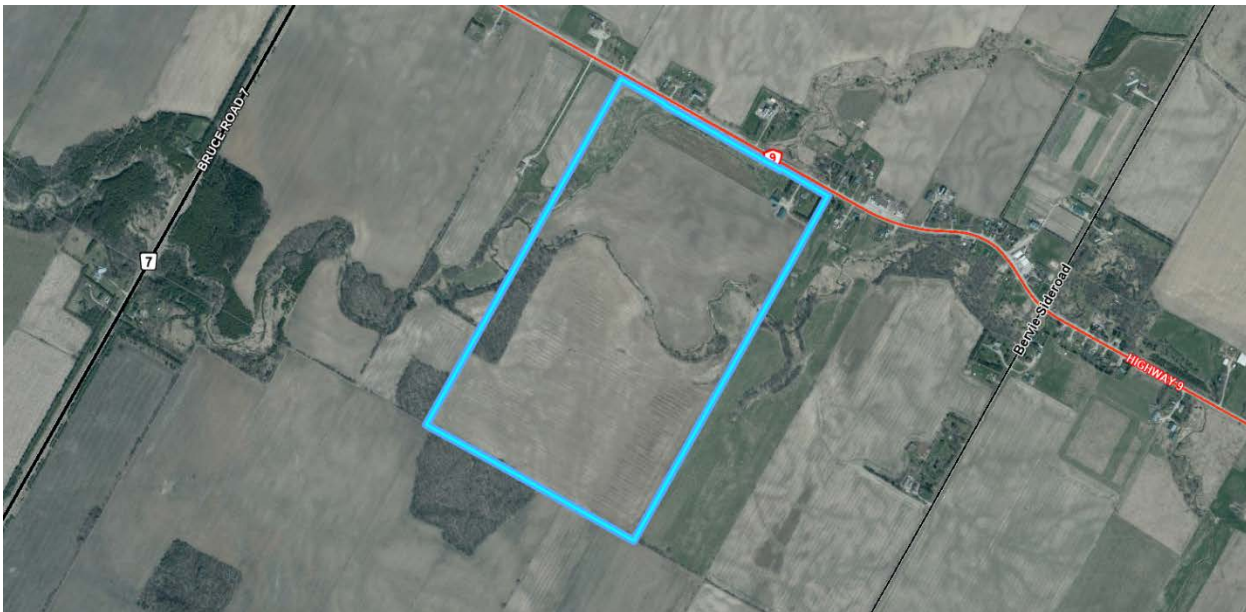
Public Meeting Notice

You're invited to a Public Meeting to consider Zoning By-law Amendment File Z-2024-011

June 12, 2024 at 5:00 p.m.

Municipal Administration Centre

A change is proposed in your neighbourhood: The applications propose to sever a +/- 0.75 ha parcel of land with a lot frontage of +/- 60 m along Hwy 9 containing an existing farmhouse and outbuildings. The proposed retained parcel has a lot area of +/- 59.5 ha with a lot frontage of +/- 530 m along Hwy 9 and is used for agriculture. The Zoning By-law Amendment would place a Holding provision on lands having high archaeological potential and prohibit residential uses on the retained farm lot. The related consent file is B-2024-012.



5031 HIGHWAY 9 - CON 1 SDR PT LOTS 45 TO 47
Municipality of Kincardine (Kincardine Township)
Roll Number 410821000112800

Learn more

Additional information about the application is available online at <https://www.brucecounty.on.ca/active-planning-applications>. 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: Jake Bousfield-Bastedo

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 **June 3, 2024** 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.

You can submit comments by email 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 under "Agendas and Minutes." Please contact the Municipality of Kincardine at 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

5031 Hwy 9, Kincardine

#1 - house - 18m x 17m (1500sq/ft)

#2 - Shed - 16m x 11m (1500sq/ft)

#3 - Shed - 24m x 16m (3680sq/ft)

• Well

○ Septic

Agricultural land surrounding owned
by Paul and Tarynne Oudshoorn
(25m on the East will be driveway) field entrance)

