



Planning Report

To: Municipality of Kincardine Council

From: Jake Bousfield-Bastedo, Intermediate Planner

Date: August 14, 2024

Re: Zoning By-law Amendment Z-2024-023 (Meyer)

Recommendation:

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

That Council approve Zoning By-law Amendment Application Z-2024-023 for Majestic Energy Inc. c/o Henry Meyer 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-2024-020, which is being considered separately at a later date by the County of Bruce. The proposal would sever a +/- 2.1 ha surplus farm dwelling lot with an existing dwelling and outbuildings from an existing +/- 42.7 ha parcel at 232 Concession 6. 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 severed and retained lots will continue to be zoned Environmental Protection.

We note that at the time of circulation an incorrect lot area was used. This would have led to an undersized remnant agricultural parcel under 39 ha, requiring an amendment to the Zoning By-law to recognize reduced lot size. The applicant has since provided an accurate lot size (confirmed by surveyor) which is large enough such that the remnant agricultural parcel will exceed 39 ha and not require an amendment to recognize reduced lot size.

Airphoto



Site Plan

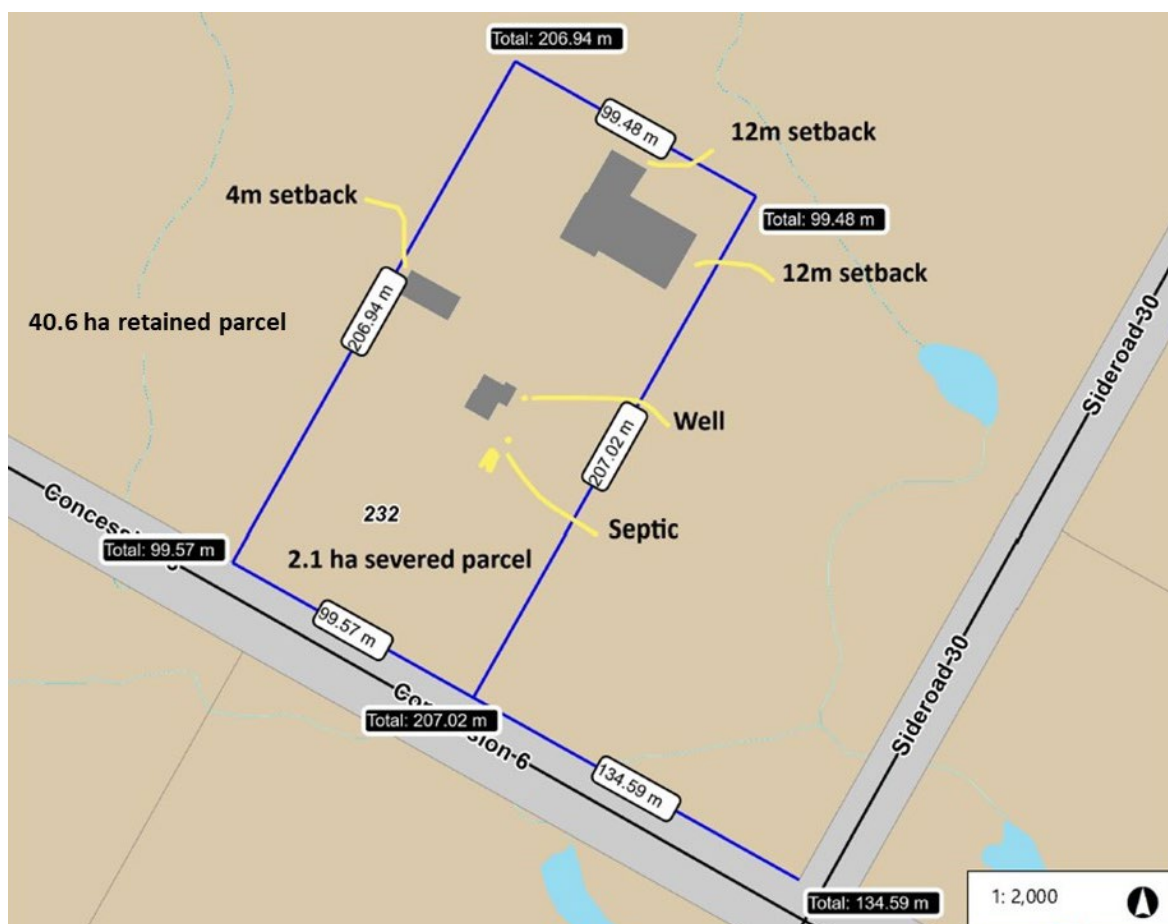


Image of Existing Structure



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 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.

In this situation, the owner is not a bona fide farmer, as they intend to stay in the current dwelling following the severance and have the agricultural lands transferred to a farmer. A purchase agreement conditional on a severance being completed has been provided in support of this application. The individual named in the purchase agreement is a bona fide farmer who owns and farms 182 hectares of land within Bruce County. This approach meets the intent of the above noted policies.

The severed lot will be limited to a size of 2.1 hectares to accommodate the existing dwelling, outbuildings, hydro, sewage and water services.

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

The Chief Building Official for the Municipality of Kincardine has confirmed that because any barns are being severed with the dwelling, MDS is not required.

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

The natural hazard features of concern on the property include an unnamed tributary of Willow Creek, floodplain, and valley slope.

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).

Natural Heritage

The natural heritage features include potential fish habitat associated with the unnamed tributary on site. 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.

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 be 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.

The Municipality of Kincardine's zoning by-law does not permit General Agriculture as a use on non-farm lots (lots zoned A1 under 4 hectares). A condition for the consent has been drafted to ensure that an affidavit is provided stating that the storage of livestock in the severed barn is prohibited following the severance.

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 (Designated Agricultural Areas and Hazard Land Area)



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



Agency Comments

Historic Saugeen Métis: No comments.

Saugeen Valley Conservation Authority: Provided in full below.

Municipality of Kincardine:

1. Provide an affidavit commissioned by a lawyer indicating that the barn on the severed lands is not currently housing livestock and will not function as a livestock facility in the future (A1 Non-Farm lot <4Ha)
2. As the consent will incorporate all buildings within the proposed severed parcel, MDS is not required (MDS#9).

Public Comments

No comments were received from the public at the time of writing this report.

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

July 29, 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-2024-020 and Zoning By-Law Amendment Z-2024-023 (Meyer)
323 Concession 6
Roll No.: 410826000216000
Lot 30, Concession 7
Geographic Township of Bruce
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 +/- 2.1 ha parcel of land with lot frontage of +/- 100 m along Concession 6 containing an existing farmhouse and outbuildings. The retained parcel has a lot area of +/- 37.0 ha 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 and recognize the reduced lot size of 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 an unnamed tributary of Willow Creek, floodplain, and valley slope. SVCA Hazardous Land mapping shows areas of the property to be low in elevation associated with the floodplain of the unnamed tributary of Willow Creek.

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 an unnamed tributary of Willow Creek, floodplain, 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)
Lori Mansfield, Applications Technician, Bruce County (via email)
Jennifer Prenger, Authority Member, SVCA (via email)
Bill Stewart, Authority Member, SVCA (via email)



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



July 22, 2024

File Number: Z-2024-023

Public Meeting Notice

You're invited to a Public Meeting to consider
Zoning By-law Amendment File No. Z-2024-023
August 14, 2024 at 5:00 p.m.
Municipal Administration Centre

A change is proposed in your neighbourhood: The applications propose to sever a +/- 2.1 ha parcel of land with lot frontage of +/- 100 m along Concession 6 containing an existing farmhouse and outbuildings. The retained parcel has a lot area of +/- 37.0 ha 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 and recognize the reduced lot size of the retained farm lot. The related Consent file is B-2024-020.



232 CONCESSION 6, BRUCE CON 7 LOT 30
Municipality of Kincardine (Bruce Township), Roll Number 410826000216000

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 **August 2, 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 and 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/>.