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# HALDIMAND COUNTY

## Report PDD-07-2019 Zoning By-law Amendment as Condition of Consent-Kelly



For Consideration by Council in Committee on February 26, 2019

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### OBJECTIVE:

To fulfill a condition of consent related to the severance of a surplus farm dwelling.

### RECOMMENDATIONS:

1. THAT Report PDD-07-2019 Zoning By-law Amendment as Condition of Consent-Kelly be received;
2. AND THAT application PLZ-HA-2018-191 to amend the Town of Dunnville Zoning By-law 1-DU 80 to prohibit future residential development and home occupation opportunities on the retained farm lands and establish a special provision for increased accessory structure floor area on the severed lands, be approved for reasons outlined in Report PDD-07-2019;
3. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement (2014), and the Growth Plan for the Greater Golden Horseshoe;
4. AND THAT the By-law attached to Report PDD-07-2019 be presented for enactment.

**Prepared by:** Benjamin Kissner, Planner

**Reviewed by:** Mike Evers, MCIP, RPP, BES, Director of Planning and Development

**Respectfully submitted:** Craig Manley, MCIP, RPP, General Manager of Community and Development Services

**Approved:** Donald G. Boyle, Chief Administrative Officer

### EXECUTIVE SUMMARY:

This Zoning By-law Amendment is a condition of consent related to a surplus farm dwelling where the lands to be severed exceed the maximum lot size provisions stated in the Haldimand County Official Plan, and as a result, the retained lands need to be re-zoned in order to prohibit a one family dwelling and home occupation in order to comply with Provincial Policy. The severed lot has an area of 1.05 hectares (2.6 acres) which exceeds the standards of the Official Plan 0.6 hectares (1.5 acres) due to how far from the road the dwelling is located which is a product of an atypical lot configuration. Additionally, the proposed severed lot will have accessory structure floor areas that total more 333 square metres, which exceeds the 200 square metres permitted in the By-law.

Planning staff are of the opinion that this proposal is in conformity with the Provincial Policy Statement 2014, complies with the Provincial Growth Plan, conforms to Haldimand County's Official Plan, and maintains the general intent and purpose of the Town of Dunnville Zoning By-law 1-DU 80. There is sufficient justification for the related consent (which proposes to create a larger than typically permitted residential lot) and this proposed zoning amendment. Planning staff recommend approval of this proposal for the reasons set out within this report.

## **BACKGROUND:**

The proposed zoning amendment is required to fulfill a condition of consent within surplus farm dwelling severance application PLB-2018-066, which was conditionally approved by the Committee of Adjustment at its meeting on May 8, 2018. The severance resulted in the creation of a 1.05 hectare (2.6 acre) parcel as a surplus farm dwelling and the retention of an agricultural parcel of approximately 48.88 hectares (118.2 acres) (shown on Attachments 1 and 2). The subject proposal is required to fulfill a condition of consent because the conditionally severed surplus farm dwelling parcel is larger than the maximum lot size of 0.6 hectares (1.5 acres) which is typically approved for surplus farm dwelling severances; as such, the retained lands are not subject to the automatic zoning provision 6.28 of the Town of Dunnville Zoning By-law 1-DU 80, which prohibits residential development on the retained farm parcel when surplus farm dwelling severances are less than 0.6 hectares (1.5 acres). The larger severance size has been proposed due to the fact that the dwelling is located approximately 200 metres from the road when following the driveway. The subject lands are located on the south side of Inman Road.

The site is legally described as MLT Range 2 GR Part Lots 22, 23, 24 RP 18R5309 Part 7 Reg; known municipally as 650 Inman Road. A general location map can be found in Attachment 1 with the overall lot configuration being shown in Attachments 2 and 3 (the owner's sketch). The conditionally severed parcel is irregularly shaped and approximately 1.05 hectares (2.6 acres) in size. The retained farm parcel is approximately 47.83 hectares (118.2 acres) in size and is intended to continue to be used for agricultural purposes. The severed parcel (Attachments 2 and 3) contains a single detached dwelling, barn and accessory structure (shed), and the surrounding land uses are predominantly agricultural with farm related residential uses. The severed lands are proposed to contain existing accessory structures which will have a total floor area of 333 square metres, which is greater than the 200 square metres permitted through provision 6.8-Accessory Uses to Residential Uses of the Zoning By-law. Planning staff has not received any concerns through the circulation of the proposal.

## **ANALYSIS:**

Planning staff have determined key planning issues related to this application. They are as follows:

### **Provincial and County Land Use Policy**

#### ***Provincial Policy Statement:***

The Provincial Policy Statement (PPS) 2014 policies are generally prohibitive when it comes to the creation of lots within prime agricultural areas in order to protect prime agricultural land. However, the PPS permits lot creation in prime agricultural areas for limited purposes and specifically limited to agricultural uses, agricultural-related uses, infrastructure, and a residence made surplus by farm consolidation provided that new residential dwellings are prohibited on the remnant farm parcel. The overall intent of the agriculture policies within the PPS is to limit the fragmentation of agricultural land and to limit the impact of non-farm dwellings on agricultural operations. In the context of this proposal, although the lot is larger than typically permitted, it is Planning staff's opinion that the proposed size of the severed lands will not lead to the unnecessary removal of land from a prime agricultural area, that the proposed lot configuration will not negatively impact the functionality or viability of the farm parcel, and that there is sufficient justification warranting the need for a lot size larger than typically permitted. This is due to the location of the dwelling on the lot, such that it is approximately 200 metres from the road. In light of the added length of the driveway, the applicants have worked to minimize the amount of agricultural land removed from production. The subject proposal for a zoning amendment to prohibit future residential opportunities on the retained lands ensures that the proposed severance is in keeping with the intent of the PPS. Planning staff are of the opinion that this proposal maintains the intent of these policies; therefore, the proposal is consistent with the PPS.

### ***Provincial Growth Plan:***

The Provincial Growth Plan–Places to Grow was also reviewed by Planning staff in relation to this proposal. The Growth Plan’s policy addresses the protection of prime agricultural lands both directly and indirectly. Based on Planning staff’s review, staff is of the opinion that the subject proposal is not in conflict with and is in keeping with the overall intent of the Provincial Growth Plan.

### ***County Policy:***

#### ***I. Haldimand County Official Plan***

The subject lands are designated as ‘Agriculture’ and subject to the related policies within the Official Plan. Haldimand County’s Official Plan, similar to the Provincial Policy Statement (2014), permits new lot creation in agricultural areas for dwellings made surplus due to farm consolidation, provided that future residential development on the retained farm lands is prohibited. The intent of the subject proposal is to ensure this Provincial and local policy requirement is met. The Official Plan’s ‘Criteria for Surplus Farm Dwelling Consents’ policies specifically permit the granting of a severance for a habitable dwelling, provided the dwelling is of a minimum age of ten years and has been made surplus through farm consolidation where a portion of the farm holding contains two or more habitable dwellings within the County. The Criteria further requires that the creation of a surplus farm dwelling lot shall generally be 0.4 hectares to 0.6 hectares (1.0 to 1.5 acres) in size to minimize the amount of agricultural land or productive forest land being taken out of production.

In the subject proposal, the size of the proposed severed lands measures approximately 1.05 hectare (2.6 acres), which exceeds the standard lot size of a surplus farm dwelling within the agricultural area. However, the Official Plan provides some flexibility in the creation of the lot size for surplus farm dwellings and Planning staff have supported larger lots previously when there are demonstrated constraints to meeting the Official Plan standard. Some examples include topography, the need to protect natural features, the situation of a dwelling on the lot, location of wells and septic systems servicing the dwelling, constraints to using accessory structures for agricultural purposes such as the access or proximity to the new dwelling, and/or lot configuration issues created by the requirements of other external agencies. In this circumstance, Planning staff have determined that there is sufficient rationale to justify a larger lot size than typically permitted. The location of the dwelling on the lot has resulted in the driveway length being approximately 200 metres (656 feet), the land area associated with this driveway has contributed to the total proposed lot area that is to be severed from the original parcel. Further to this, it should be noted that efforts have been made by the applicant to minimize the amount of agricultural land conveyed and dedicate only as much land as required to the dwelling, access and related residential features. In sum, this provides suitable justification for Planning staff to recommend approval of this proposal.

Planning staff are further of the opinion, that the ‘Criteria for Surplus Farm Dwelling Consents’ tests have been met as the dwelling is surplus and more than 10 years old (constructed in 1935), private services are available, the proposed lot configuration will not negatively impact the functionality or viability of the farm, the proposal is appropriately separated from any licensed pits and/or quarries, there is direct frontage and access on a public road and there are no perceived negative impacts on the natural environment. Planning staff’s opinion is that there is sufficient justification to support the related severance and the subject proposal which recognizes a lot larger than the Official Plan’s recommended lot size.

#### ***II. Minimum Distance Separation (MDS) Requirements***

Both Provincial and County policy requires that measures be taken to ensure that agricultural and residential uses are compatible with each other in an effort to reduce future land use

conflicts. This is accomplished, in part, by requiring new lots to satisfy Minimum Distance Separation (MDS) requirements which address issues such as odour from livestock facilities. No livestock facilities were observed on the subject or surrounding lands, and the applicant has indicated that there are no livestock facilities on or within 500 metres (1,640.4 feet) of the subject lands.

### **III. Town of Dunnville Zoning By-law 1-DU 80**

The subject lands are zoned 'Agricultural' (A) in the Town of Dunnville Zoning By-law 1-DU 80. The intent of this proposal is to fulfill a condition of consent related to a surplus farm dwelling severance by prohibiting future residential development and home occupations on the retained farm lands. It has demonstrated functionality in terms of both the residential use, and continued opportunity for agricultural uses, and as such, staff are supportive.

As the intent of this proposal is to fulfill the requirements of both provincial and local policy by prohibiting future residential development and associated home occupations on the retained farm lands, Planning staff are of the opinion that the subject proposal is appropriate. The overage with respect to the accessory structure floor area (300 square metres where 200 metres is permitted), recognizes structures that exist on the site today and thus appearance and character would not be impacted. A draft Zoning By-law has also been completed and included within Attachment 3.

## **FINANCIAL/LEGAL IMPLICATIONS:**

Not applicable.

## **STAKEHOLDER IMPACTS:**

Building & Municipal Enforcement Services—No objections; a septic evaluation is required per the conditions applied through approval of consent application PLB-2018-066.

Grand River Conservation Authority—No objections.

Roads Operations—No objections.

Planning and Development (Development and Design Technologist)—No objections.

Water and Wastewater Engineering & Compliance—No objections.

Emergency Services—No objections.

No comments were received from the public or the Mississaugas of the Credit First Nation Council, Six Nations Council, Hydro One, MTO, MPAC, and Union Gas.

## **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

**ATTACHMENTS:**

1. General Location Map.
2. Location of Lands Affected–Owner’s Sketch.
3. Draft Zoning By-law Amendment.
4. Zoning Review Chart.