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# HALDIMAND COUNTY

## Report PDD-29-2020 Zoning By-law Amendment for a Condition of Consent – Huigen Bros. Farms



For Consideration by Council in Committee on October 6, 2020

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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-29-2020 Zoning By-law Amendment for a Condition of Consent – Huigen Bros. Farms be received;
2. AND THAT application PLZ-HA-2020-099 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 be approved for reasons outlined in Report PDD-29-2020;
3. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement (2020), and the Growth Plan for the Greater Golden Horseshoe 2019;
4. AND THAT the By-law attached to Report PDD-29-2020 be presented for enactment.

**Prepared by:** Alicia West, Planner

**Reviewed by:** Shannon VanDalen, MCIP, RPP, Manager of Planning and Development

**Respectfully submitted:** Mike Evers, MCIP, RPP, BES, General Manager of Community & Development Services

**Approved:** Craig Manley, MCIP, RPP, Chief Administrative Officer

### EXECUTIVE SUMMARY:

This Zoning By-law Amendment was required as a condition of consent for a surplus farm dwelling severance where the lands to be severed exceed the maximum lot size provisions, and as a result, the retained lands need to be re-zoned in order to remove a one family dwelling and home occupation as a permitted use in order to comply with Provincial Policy.

Planning staff are of the opinion that this proposal is in conformity with the Provincial Policy Statement (2020), complies with the Provincial Growth Plan (2019), 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 requested a larger than typically permitted residential lot) and this resulting zoning amendment application. Planning staff recommend approval of this amendment for the reasons set out within this report. A public meeting has been scheduled to correspond with the presentation of this report. A public notice sign was posted at the site and visible when the Planner conducted a site visit.

## **BACKGROUND:**

The proposed zoning amendment is required to fulfill a condition of consent within surplus farm dwelling severance application PLB-2019-176, which was conditionally approved by the Committee of Adjustment at its meeting on December 17, 2019. The severance resulted in the creation of a 1.17 hectares (2.89 acres) parcel as a surplus farm dwelling and the retention of an agricultural parcel of approximately 46 hectares (116 acres) (shown on Attachments 1 and 2). The subject proposal is required because the severed parcel is larger than the maximum lot size of 0.6 hectares (1.5 acres) and as such, the retained lands are not subject to the automatic zoning provision of the Town of Dunnville Zoning By-law 1-DU 80. The automatic zoning 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 is due to the location of the existing dwelling and the length of the driveway, as well as the inclusion of wetlands within the front yard which are not functional for the agriculture parcels.

The subject lands are located on the north side of Lakeshore Road, north of Lake Erie and east of Haldimand Dunnville Townline Road. The site is legally described as Part Lot 3, Concession 4, South of Dover Road, Geographic Township of Dunn, and known municipally as 3063 Lakeshore Road. A General Location map can be found in Attachment 1 with the overall lot configuration being shown in Attachment 2 (the owner's sketch). The conditionally severed parcel is irregularly shaped and approximately 1.17 hectares (2.89 acres) in size which is the result of the distance that the dwelling is set back from the road. The retained farm parcel is approximately 46 hectares (116 acres) in size and is intended to continue to be used for agricultural purposes. Planning staff supports this rezoning, and has not received any concerns through 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:**

#### **1. Provincial Policy Statement, 2020**

The Provincial Policy Statement (PPS) 2020 policies are generally prohibitive when it comes to the creation of new 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 related 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 minimize 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 and low lying wet land on the front portion of the lands. 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.

## 2. **Provincial Growth Plan, 2019**

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.

## 3. **County Policy**

### *Haldimand County Official Plan*

The subject lands are designated ‘Agriculture’ and subject to the related policies within the Official Plan. The intent of this designation is to protect and preserve prime agricultural lands within the County and set out specific criteria for permitting the severance of a surplus farm dwelling.

Specifically, Haldimand County’s Official Plan, similar to the Provincial Policy Statement (2020), permits new lot creation in agricultural areas for dwellings made surplus through farm consolidation, provided that future residential development on the retained farm lands is prohibited. The intent of the subject proposal is to ensure that Provincial and local policy requirements are 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. The minimum age requirement of the dwelling is maintained since the home was constructed circa 1988 as confirmed by MPAC data. In the subject proposal, the size of the proposed severed lands measures approximately 1.17 hectares (2.89 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 large lots when there are demonstrated constraints. In this situation, the location of the dwelling on the lot, as well as low lying wetlands unsuitable for farming and the surrounding lot fabric, has contributed to the total proposed lot area that is to be severed from the original parcel.

### *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. Therefore, MDS is not applicable for the subject lands or the requested zoning amendment.

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

The subject lands are zoned ‘Agricultural’ (A) in Town of Dunnville Zoning By-law 1 DU-80. The intent of this proposal is to fulfill a condition of consent to prohibit future residential development and home occupations on the retained farm lands. The balance of the (A) zone provisions are being met and Planning staff are satisfied that the proposal meets the general intent of Zoning By-law 1 DU-80.

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. 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-2019-176.

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.