

REPORT: Planning & Building Services Department



REPORT TO: Council
MEETING DATE: June 27, 2011
REPORT NO.: PL.11.58
SUBJECT: Application for Consent
File No. B02-2011; and
Zoning By-law Amendment -
Estate of Nelson Boyd
West Part Lot 19, Concession 12;
236421 Grey Road 13
Town of The Blue Mountains
PREPARED BY: Bryan Pearce,
Planner I

A. Recommendations

THAT Council receive Planning Staff Report PL.11.58, “Application for Consent File No. B02-2011; and Zoning By-law Amendment – Estate of Nelson Boyd; West Part Lot 19, Concession 12; 236421 Grey Road 13; Town of The Blue Mountains”; and

THAT Council authorize Consent No. B02-2011, subject to the following conditions:

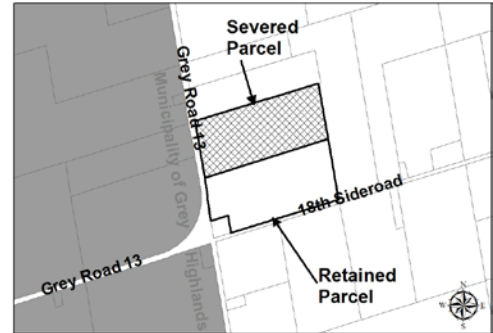
- 1. That the Applicant meet all the requirements, financial and otherwise of the Town for the Certificate of Consent to be issued;**
- 2. That the Applicant provide a description of the land which may be registered under the requirements of the *Registry Act* or *Land Titles Act* as applicable;**
- 3. That Council enact a Zoning By-law Amendment to establish a new minimum lot area for the severed and retained parcels; to establish a building envelope on the severed and retained parcels; and to delineate the environmental hazard lands by rezoning it to Hazard (H) Zone;**
- 4. The payment of cash-in-lieu of applicable parkland dedication;**
- 5. The Payment of Road and Related Service of the applicable Town-wide Development Charges;**
- 6. That an Entrance Permit be obtained from the County of Grey’s Transportation and Public Safety Department for the severed parcel**
- 7. That a Demolition Permit be obtained to the satisfaction of the Town’s Chief Building Official for the removal of the existing barn; and further**

THAT Council enact a Zoning By-law Amendment to establish a new minimum lot area for the severed and retained parcels; to establish a building envelope; and to delineate the environmental hazard lands by rezoning it to Hazard (H) Zone.

B. Background

The purpose of Application for Consent File No. B02-2011 is to sever a 19.9 hectare vacant parcel on the northern portion of the property; while retaining a 19.8 hectare parcel, containing an existing dwelling (barn to be demolished).

The subject lands are located on the east side of Grey Road 13 and the north side of 18th Sideroad south of the community of Heathcote, with a civic address of 236421 Grey Road 13 on the retained parcel.



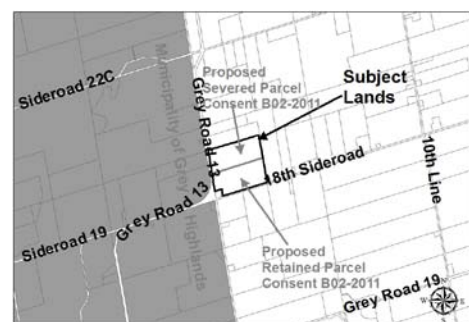
It should be noted that the subject lands have no municipal water or sewer service fronting along the roads, being in the rural service area. The subject lands are comprised of 97 acres (39.3 hectares) are currently used for agricultural purposes, as illustrated in the May 2006 aerial photography (see Attached Item #1).

The Ownership is in the Estate of Nelson Boyd (Executor is Donald Parks), who has authorized John Hewgill to act on their behalf with it being noted that he has an interest in purchasing the subject property. The Applicant has submitted a summary letter, Minimum Distance Separation (MDS-I) calculations and a Stage One Archaeological Assessment as supporting documentation with these planning applications.

The intent of these applications is to create a new agricultural lot with the intent to plant the lands into specialty crops (apple orchard in this case) with a proposed side lot line that would coincide with just north of the existing entrance onto Grey Road 13, so that on-site hydro services can be kept with the existing farmstead dwelling on the retained parcel. The intent is to follow in close proximity to the existing tree line behind the farmstead area to the rear of the lot, but ultimately the Applicant plans to remove the vegetation with planting the lands with apple trees. The existing barn would be impacted with the proposed lot line, but is planned to be removed by the Applicant.

The surrounding uses include actively farmed agricultural lands to the north, east south and west. It should be noted that there are a few existing rural non-farm residential lots in the general area, with one abutting the retained parcel to the southwest of the subject lands.

The Proponent has also filed an Application for Zoning By-Law Amendment in conjunction with the consent. An amendment is required to recognize both the retained and severed parcels as being deficient of the 20 hectare lot area requirement of the General Rural (A1) Zone; and to establish a building envelope on the severed and retained parcels.



Planning Comments

Planning authorities must have regard to matters of Provincial interest, the criteria of the *Planning Act* and be consistent with the Provincial Policy Statement (PPS-2005). Within the Town of The Blue Mountains they must also make decisions that conform to the County of Grey Official Plan and Town of The Blue Mountains Official Plan; and make decisions that represent good land use planning.

Provincial Interest – Legislation, Policy, Guidelines

The PPS-2005 supports this lot addition proposal under Section 2.3 under Agriculture. Planning Staff notes that prime agricultural areas shall be protected for the long-term use for agriculture.

Section 2.3.3 of the PPS-2005 policies notes as permitted uses includes new land uses, including the creation of lots provided that it complies with the MDS formulae.

Section 2.3.4 of the PPS-2005 has policies that relate to lot creation in prime agricultural areas; and states that lot creation in prime agricultural areas is discouraged and may only be permitted for four policy options – the one that is applicable is as follows:

agricultural uses, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations.

It should be noted that the proposal complies with MDS which is detailed later on in this report. The proposal is essentially a farm split – agricultural lot creation which the County and Town Official Plans have specific policies on the matter which is also detailed later on in this report.

County of Grey Official Plan

All development must conform to the purposes and policies of the County of Grey Official Plan.

The subject lands are designated as Agricultural and Special Agriculture within the County of Grey Official Plan. The Special Agriculture land use designation is on a majority of the site being approximately 70 acres (28.3 hectares), save and except the western portion that has an Agricultural land use designation of 27 acres (10.9 hectares).

The Official Plan has lot size policies for Agricultural lots being generally 100 acres (40 hectares) and Specialty Agriculture lots being generally 25 acres (10 hectares). The intent of the policy is to limit the fragmentation of the agricultural land base while still allowing the flexibility in the future to expand and alter farm operations based on

changes to the economy and markets. Planning Staff note that the Agricultural land use designation portion of the subject lands is already undersized with respect to the policy. In contrast, the Specialty Agriculture lands are over in above the policy requirements for lot size and do not appear to adversely affect the overall usage of the lands. No lands will be removed from agricultural use and possess unique soils and climatic qualities for fruit crops. As noted in the summary letter of the proponent – it is the intent to use the lands for specialty agriculture (fruit crop) purposes with planting the lands into an apple orchard above the ridge to the rear of the proposed lot that is warranting the proposed farm split with the unique soils and climatic qualities that the specialty agriculture lands possess.

Section 2.1.4 of the Official Plan has agricultural consent policies that note that consent may be permitted provided that no lot creation has been provided for in the past. Planning Staff note that there was at some point in the past the non-farm residential lot that was created at the intersection of The Blue Mountains-Euphrasia Townline and the 18th Sideroad. Again the intent is to limit fragmentation of the agricultural lands within the Agricultural land use designation. It should be noted that the non-farm residential lot creations are not permitted under the existing Official Plan policies within the Agricultural and Specialty Agriculture land use designations. Planning Staff are of the opinion that since the subject lands are within two land use designations that this policy has no impacts as only a minimal portion (27 acres (10.9 hectares)) of the proposed farm lot is within the Agricultural land use designation and further that this policy is not contained within the Specialty Agriculture land use designation policies of the Official Plan.

Section 2.2.4(1)(c) of the Official Plan requires that MDS be met. Through the submission requirements of the applications it appears that the MDS setbacks can be obtained on the subject lands, as detailed later on in this report.

Section 5.2.2(6)(f) of the Official Plan states that any applications for development shall be referred to the appropriate approval authority as the lands are abutting a County Road. Planning Staff note that comments have been received from County of Grey Transportation and Public Safety Department, as they have road authority for Grey Road 13.

Therefore it is Planning Staff's opinion that the proposal conforms with the County Official Plan for this specialty agricultural farm lot creation proposal.

Town of The Blue Mountains Official Plan

The Town of The Blue Mountains Official Plan designates the subject lands as Agricultural (A) and Specialty Agriculture (SA). The intent and purpose of the Agriculture designation is to first and foremost identify the primary agricultural lands of the Municipality and to ensure its maintenance for continued use and long term productivity. The Special Agriculture further identifies the specialty crop lands that are ideally suited for orchards or other specialty crop purposes within the Municipality.

Again as noted above, the Special Agriculture land use designation is on a majority of the site being approximately 70 acres (28.3 hectares), save and except the western portion that has an Agricultural land use designation of 27 acres (10.9 hectares). The Official Plan has the same lot size policies as the County Official Plan, with the existing Agricultural land use designation being undersized as it exists today, but over and above the requirements for the Specialty Agriculture land use designation.

Section 4.1.7 of the Official Plan has policies as it relates to farm related consents. Consents only shall be permitted where considered supportive of the continued viability of farm operations. Policies require the proponent to rationalize the need of the proposed farm lot creation. Below is an excerpt of the proponent's rationalization:

The need is to take a large ninety eight acre farm and sever it into two parcels so that the cost of planting each parcel is attainable. The cost of planting orchard by today's standards is approximately \$20 000-40 00 per acre. The other reason for severance is that it gives each land owner a production block in a specific geographic location. This helps us with frost damage, hail storms, and other weather related issues. The importance of having your production blocks in different areas cannot be emphasized enough.

In the immediate future the farm will be rented to the same person who has operated the land in the past and the land will stay in production of cash crop until it is tilled and planted to orchard. The viability of the farm will be protected because of the investment that will be made- for the purchasing, the tiling, and the planting of the trees. This is a high investment, and is an investment for the next twenty years. The flexibility of the farm will be protected because of the efficient plantings and latest varieties that will be used. This will ensure a viable and flexible farm into the future.

The intent and purpose of the plan is to give two land owners the opportunity to plant new varieties and use efficient growing systems.

Policies note that consent shall be limited to one severance per farm unit existing on the date of passing of this Official Plan. Planning Staff note that this is the first consent application since the date of passing and therefore this policy is maintained.

Policies note that new farm dwelling and buildings shall be directed to a location with the least productive soils for farming. Based on the limited opportunities for entrance onto Grey Road 13 through the comments from County of Grey, the MDS setbacks, and the environmental hazard lands delineated by the Grey Sauble Conservation Authority – this will limit the location of establishing the development envelope. There is relatively flat grade around the existing farmstead area that would be utilized for the development envelope for the proposed severed and retained parcels, as noted in greater detail below.

Section 8.13 requires that Minimum Distance Separation (MDS) be applied to all new land uses, such as lot creation. MDS Formula I (MDS-I) provides minimum distance separation for new development from existing livestock facilities. The

creation of new lots shall also comply with these provisions in a manner which will ensure dwellings meet the MDS formula.

The MDS calculations has determined that one existing barn on retained parcel impacts a portion of the severed parcel with the MDS-I setback (see Attached Item #1). This will prohibit the proposed new dwelling for the new lot to be located within these identified MDS-I setback areas, limiting the odour conflict. A suitable location must be identified for a one (1) hectare building envelope for the proposed dwelling outside of the MDS-I setback, as noted in the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) MDS Guidelines. It was determined that a suitable location for single detached dwelling could be located outside of the arc of influence of the existing barn on the adjacent lands to the west at 236420 Grey Road 13.

Therefore, it would appear that the proposed consent and zoning by-law amendment conforms to the policies of the Official Plan, as Planning Staff will identify a one hectare building envelope for the proposed single detached dwelling through the zoning by-law amendment.

Zoning By-law

The subject lands are zoned General Rural (A1) within the Township of Collingwood Zoning By-law 83-40. Permitted uses within the General Rural (A1) Zone include agricultural uses, a single detached dwelling on one lot, forestry and conservation, as well as uses, buildings and structures accessory to those uses. The minimum lot area requirement of the General Rural (A1) Zone is 20 hectares respectively.

An amendment is required to recognize both the retained and severed parcels as being deficient of the 20 hectare lot area requirement of the General Rural (A1) Zone for the proposed creation of the farm lot; and to establish a building envelope on the severed and retained parcels to ensure it outside of the MDS setback areas and isolate the location on the farmlands.

Planning Staff requires that an approximate one hectare building envelope for the proposed single detached dwelling and all buildings and structures be identified through the zoning by-law amendment in the south portion of the severed parcel as the grade is relatively flat for the farmstead area; and the north portion of the retained parcel (where existing farmstead is located), as noted in the OMAFRA MDS Guidelines.

It should be noted that the building envelope has the followings setbacks:

	<u>Severed Parcel</u>	<u>Retained Parcel</u>
Front Yard Setback	120 metres	100 metres
Northerly Interior Side Yard Setback	N/A	8 metres
Southerly Interior Side Yard Setback	8 metres	N/A

For the severed parcel, the distance of the northerly and southerly building envelope boundary lines would be 125 metres (width) with the easterly and westerly building

envelope boundary lines would be 80 metres (depth) which aids in the flat graded area of the future farmstead.

For the retained parcel, the distance of the northerly, easterly, southerly, and westerly building envelope boundary line would be 100 metres to obtain the 1 hectare building envelope, save and except where the environmental hazard lands impact the existing farmstead development envelope.

There is an existing barn that would not be in compliance with the setbacks to the proposed newly created side lot line. As a condition of approval to consent, the proponent is required to obtain a demolition permit to the satisfaction of the Town's Chief Building Official for the removal of the existing barn.

Additional Comments

Agency Comments

Comments were received from the County of Grey - Planning and Development Department; County of Grey – Transportation and Public Safety Department (TAPS); Grey Bruce Health Unit (GBHU); Grey Sauble Conservation Authority (GSCA); and Historic Saugeen Metis. These comments are summarized below.

The County of Grey - Planning and Development Department have recommended refusal on these planning applications as it is County Planning Staff's opinion that they do not conform to the consent policies of the Agricultural designation of the County of Grey Official Plan and thus do not conform to the policies of the PPS-2005. Again Planning Staff have reviewed the County of Grey Official Plan for this project and have dialogued with County Planning Staff on this planning issue with the split land use designations of Agricultural and Specialty Agriculture and offered our opinion earlier in this report.

The County of Grey – TAPS Department have recommended that the entrance is limited to the northern portion of the subject lands for access onto Grey Road 13 due to limited sightlines with the vertical curvatures of the road segment that fronts the subject lands (entrance to be near the forested area). Due to the public comments raised at the public meeting, Planning Staff requested that County of Grey – TAPS Department re-visit the comments provided to ensure there would be adequate sightlines for an entrance to ensure public safety on Grey Road 13 – this was re-confirmed on June 14, 2011 through email communication.

The GBHU notes that both the severed and retained parcels can be considered suitable for residential farm development and to be serviced by private drinking water supplies and private sewage system. They note that they have no objections of these planning applications.

The GSCA has no issues of concern, provided that the proposed zoning by-law amendment recognizes the environmental hazard lands associated with the

watercourses on the subject property that was noted during a site visit. Planning Staff has adjusted the draft zoning by-law amendment to recognize the environmental hazards on the subject property.

The Historic Saugeen Metis has no issues of concerns on these planning applications.

Interdepartmental Comments

Comments were received from Engineering and Public Works Department (EPW), having no issues of concern with the proposal.

Planning Staff notes that no other interdepartmental comments have been received on these applications; and therefore no further issues of concern has been raised for this proposal.

Public Meeting Comments

Based on the site visit conducted on May 4, 2011, the placards for consent and zoning by-law amendment were posted on-site near the driveway entrance, along with a mail out circulation of the Notices to area assessed property owners and publication in the April 13, 2011 edition of The Courier-Herald Newspaper.

The public meeting was held on May 4, 2011, as required under the *Planning Act*. Additional comments were received through the Committee with the public in attendance at the public meeting. Below are the issues of concern raised at the public meeting with the proposal:

Entrance

It was noted that the sightlines are poor on Grey Road 13 and that proposing another entrance may be of an issue. Planning Staff advised that we would re-visit the comments provided by County of Grey – TAPS Department to ensure there would be adequate sightlines in obtaining an entrance onto Grey Road 13.

Written Correspondence Received From the Public

Comments were received from the public on the proposal. Below are the issues of concern raised in the written correspondence:

Severance of prime usable agricultural land

As noted above in great detail, agricultural lot creations are permissible under certain criterion laid out in provincial, county and local policies.

Proposal doesn't meet General Rural (A1) Zone Provisions

The Zoning By-law, being the Township of Collingwood Zoning By-law 83-40 as amended, pre-dates the Town Official Plan, so there isn't a zone category for the specialty agricultural lot that is being created – therefore relief is required to implement the Official Plan.

Types and Uses of Buildings/Structures on the severed parcel

The Zoning By-law regulations under the General Rural (A1) Zone require that the permitted use be within the following:

- Agricultural uses
- Single detached dwelling
- Forestry or conservation
- Home occupation
- Home industry
- Use, buildings and structures accessory to any of the permitted uses above (ie. Swimming pool, detached garage/shed, etc)

Location of the Building Envelope on the Severed Parcel

Again, the location of the building envelope is restricted due to the odour potential from the existing barns in the general area, as established through MDS calculations; to isolate farmstead development on the agricultural lands; and the environmental hazard lands of the watercourse as noted by the GSCA. A one hectare development envelope is proposed through the zoning by-law amendment.

Entrance

Again, the entrance comments from the County of Grey – TAPS Department has been re-visited as noted above, with it noted that an entrance can be obtained at the northern portion of the severed parcel (near the forested area).

Summary

Planning Staff recommend that as a condition of approval to consent that the Applicant meet all the requirements, financial and otherwise of the Town for the Certificate of Consent to be issued.

Further, Planning Staff recommend that as a condition of approval to consent that the applicant provides a description of the land which may be registered under the requirements of the *Registry Act* or *Land Titles Act* as applicable.

Further, Planning Staff recommend that as a condition of approval to consent that Council enacts the zoning by-law amendment, as proposed in this report.

Further, Planning Staff recommend that as a condition of approval to consent that the payment of parkland dedication charges for the creation of a new lot be in accordance with the payment in-lieu of parkland interim policy that was established by the Town.

Further, Town Staff recommend that as a condition of approval to consent that the proponent pay the “hard” service component (being road and related service in the rural service area) of the Town-wide uniform development charge in accordance with By-law 2010-18. It should be noted that these are the existing applicable Development Charge By-laws for rates as of the date of this report being considered by Council and that the proponent would have to pay the rate that is in effect at time of payment. The “soft” service component of the Town-wide uniform development charge (general government, fire, police, public works, parks and recreation and library) will be applicable for the development of a single detached dwelling on the severed parcel and will be required to be payable prior to building permit issuance. As of the date of this report being considered by Council, it would be in accordance with By-law 2010-18, but again, the proponent would have to pay the rate that is in effect at time of payment.

Further, Planning Staff recommend that as a condition of approval to consent that the proponent will be required to obtain an Entrance Permit from the County of Grey – TAPS Department for the severed parcel, to ensure that access is obtained to the proposed new lot.

Furthermore as noted above in the report, Planning Staff recommend that as a condition of approval to consent that the proponent is required to obtain a demolition permit to the satisfaction of the Town’s Chief Building Official for the removal of the existing barn.

Based on the foregoing, it is the opinion of Planning Staff that the proposed consent and zoning by-law amendment conforms to the intent and direction of the Town of The Blue Mountains Official Plan and represents good planning. Therefore, Planning Staff would support these applications for consent and zoning by-law amendment subject to the conditions noted in this report.

C. The Blue Mountains’ Strategic Plan

The recommendation in this Planning Staff Report PL.11.58 is consistent and supports the following Strategic Plans Goals:

“1. Managing growth to ensure the ongoing health and prosperity of the community”.

D. Environmental Impact

The proposal does not appear to generate any special or significant environmental impacts.

E. Budget Impact

N/A

F. Attached

1. Aerial Photograph of the Subject Lands, May 2006
2. Minimum Distance Separation Map, Received By the Town April 6, 2011
3. Draft Decision of Consent Application No. B02-2011
4. Draft Zoning By-law Amendment

Respectfully submitted,

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