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**STAFF REPORT: Planning & Building Services Department**



**REPORT TO:** Council  
**MEETING DATE:** December 17, 2012  
**REPORT NO.:** PL.12.150  
**SUBJECT:** Application for Zoning By-law Amendment – Joy Parks  
 South Part Lot 4, Concession 5;  
 Town of The Blue Mountains  
**PREPARED BY:** Bryan Pearce, HBA, CPT, MCIP, RPP  
 Planner

**A. Recommendations**

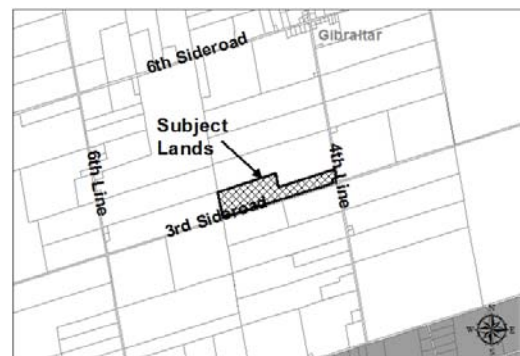
**THAT Council receive Planning Staff Report PL.12.150, “Application for Zoning By-law Amendment – Joy Parks; South Part Lot 4, Concession 5; Town of The Blue Mountains”; and**

**THAT Council enact a Zoning By-law Amendment to rezone a portion of the lands from the Public Industrial (M5) Zone to General Rural (A1) Zone; and a portion of the lands from the General Rural (A1) Zone to the General Rural (A1-h) Zone.**

**B. Background**

The purpose of this Application for Zoning By-law Amendment would be to amend the zoning associated with the former site location of a telecommunications tower by allowing for rural residential/agricultural uses to occur in this area, consistent with the abutting zoning, to ultimately develop a single detached dwelling; and to protect the Gibraltar Moraine Area of Natural and Scientific Interest (ANSI) – Earth Science from site alteration and development.

The subject lands are located on the northwest corner of the intersection of 4<sup>th</sup> Line and 3<sup>rd</sup> Sideroad, with the agricultural lands abutting to the south, west and north with the cemetery and additional agricultural lands to the east on the east side of 4<sup>th</sup> Line.



It should be noted that the subject lands do not front municipal water or sewer services, as the future anticipated proposed dwelling on the agricultural lot would need to be serviced by a private on-site well and septic system, being that the subject lands are within the Rural service area.

The subject lands of the agricultural parcel are comprised of approximately 30 hectares (75 acres). The subject lands are currently used for agricultural purposes and are currently vacant at present with the future anticipation to construct a proposed singled

detached dwelling in this area to be rezoned from the Public Industrial (M5) Zone to the General Rural (A1) Zone. The subject lands are illustrated in the Spring 2010 aerial photography (see Attached Item #1).

The rural lot is owned by Joy Parks; and Andrea Potter, Ainley Group, has been authorized to act as their Agent with respect to this planning application. The Agent has submitted a Planning Justification Report as supporting documentation with this planning application.

## **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 zoning by-law amendment proposal under Section 1.1.4.1 under Rural Areas in Municipalities it states:

*Section 1.1.4.1 a)*

*In rural areas located in municipalities permitted uses and activities shall relate to the management or use of resources, resource-based recreational activities, limited residential development and rural land uses;*

*Section 1.1.4.1(c)*

*New land uses, including the creation of lots, and new or expanding livestock facilities, shall comply with the minimum distance separation formulae;*

*Section 1.1.4.1 d)*

*In rural areas located in municipalities development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted.*

Planning Staff notes that within the rural areas limited residential development is permitted, and therefore this request to zoning by-law amendment, would enable the construction of a single detached dwelling on this existing vacant lot of record. Also, it should be noted that the proposal complies with MDS which is detailed later on in this report. Further, the area to be rezoned comprises part of a much larger property, which, like the large farm/rural tracts also accommodates isolated residential development that surrounds it to ensure that development in rural areas is compatible with the rural landscape and can be sustained by rural service levels. In essence replacing the subject area's existing public industrial zoning with a rural land use zoning classification will restore the protective zoning intended to broadly apply to rural parts of the Town as a means of maintaining the integrity of the rural landscape.

Further, under Section 2.1 Natural Heritage it further states:

*Section 2.1.3(a)*

*Development and site alteration shall not be permitted in significant habitat of endangered species and threatened species.*

*Section 2.1.4*

*Development and site alteration shall not be permitted in:*

- b) Significant woodlands south and east of the Canadian Shield;*
- e) Significant areas of natural and scientific interest.*

*unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.*

*Section 2.1.6*

*Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.3, 2.1.4 and 2.1.5 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.*

*Section 2.1.7*

*Nothing in policy 2.1 is intended to limit the ability of existing agricultural uses to continue.*

In regards to significant habitat of endangered species and threatened species, Planning Staff notes that upon a site visit by the Grey Sauble Conservation Authority (GSCA) for review of this planning application, they identified 5 butternuts on the subject lands, contained within the hedgerow within the north central portion of the subject property. It is noted that the Butternut are endangered under Ontario's Species At Risk. Naturally occurring Butternut are protected under Ontario's *Endangered Species Act (ESA)*; and Section 5 of Ontario Regulation 242/08 provides detailed information on Butternut protection under the ESA. Planning Staff notes that a butternut health assessment has not been completed in light of this discovery to qualify if the trees are retainable or not. In this regard, the Ministry of Natural Resources (MNR) normally suggests a protective buffer of 25 metres around the butternut trees, as further stated in comments obtained from the GSCA. In order to be consistent with this policy, Planning Staff recommends that the holding (-h) symbol be utilized to preclude any future site alteration or development from occurring until such time an Environmental Impact Study has been completed to ensure no negative impacts on the natural features or their ecological functions.

In regards to significant woodlands, Planning Staff notes that the County of Grey, as part of the 5 year review of the Official Plan, created a significant woodlands constraint, through a mapping exercise in consultation with the MNR. The 2010 Natural Heritage Reference Manual (NHRM) was created by MNR in support of the PPS-2005, and requires an adjacent lands buffer of 120 metres. In order to be consistent with this policy, Planning Staff recommends that the holding (-h) symbol be utilized to preclude any future site alteration or development from occurring until such time an Environmental Impact Study (EIS) has been completed to ensure no negative impacts on the natural features or their ecological functions.

In regards to significant areas of natural and scientific interest (ANSI), Planning Staff notes that this natural feature is known as the Gibraltar Moraine and is an earth science ANSI. The 2010 NHRM was created by MNR in support of the PPS-2005 requires an adjacent lands buffer of 50 metres. In order to be consistent with this policy, Planning Staff recommends that the holding (-h) symbol be utilized to preclude any future site alteration or development from occurring until such time an Environmental Impact Study has been completed to ensure no negative impacts on the natural features or their ecological functions.

Finally, Planning Staff notes that Section 2.1.7 of the PPS-2005 is important to note in this instance, as agricultural usage is occurring on a portion within these lands at present, so these uses can continue in this regard even though the holding (-h) symbol would be utilized to preclude site alteration (as defined) and development (as defined).

Planning Staff are of the opinion that this zoning by-law amendment proposal is consistent with the PPS-2005, raising no issues of Provincial significance. The significant woodlands and its associated 120 metre adjacent lands would encompass the land area associated with the ANSI and its associated adjacent lands, as well as the butternut trees and its associated 25 metre protective buffer; and the holding (-h) symbol would encompass this associated land area of these natural features and the adjacent lands / buffer areas.

### **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 Rural within the County of Grey Official Plan. Section 2.3.2(1) states that the agricultural uses (which include the associated on-farm buildings and structures) are permitted uses within this land use designation.

Section 2.3.3(1)(b) of the Official Plan states that for any non-farm land uses to be permitted, the location of the non-farm land use imposes no operating constraints to an existing farm and that new land uses, including the creation of lots and new or expanding livestock facilities shall comply with the Provincial Minimum Distance Separation (MDS) formulae. Planning Staff notes that an MDS Study was completed by the Agent, as part of the Planning Justification Report, and there appears that there are no odour buffers that impact this proposal, and thus complies with MDS.

Under Appendix B of the Official Plan, there is an Aggregate Resource Area in the northeast corner of the subject lands. Section 2.3.3(1)(i) states that for any non-farm land uses to be permitted within or within 300 metres of the Aggregate Resource Area, non-farm development (other than passive open space uses) shall only be permitted where it has been demonstrated that the proposed land use or development would not significantly preclude or hinder aggregate extraction or represent an incompatible land use. Planning Staff notes that this is an existing lot of record and there is ample space on the 30 hectare property to be greater than

300 metres away from the Aggregate Resources Area, as identified within the County of Grey Official Plan.

Under Appendix B of the Official Plan, there is a Significant Woodlands in the Northwest corner of the subject lands. Section 2.8.4(1) states that no development or site alteration may occur within Significant Woodlands or their adjacent lands unless it has been demonstrated through an EIS that there would be no negative impacts on the natural features or their ecological functions. The adjacent lands, as noted in Section 6.19 of the Official Plan, would be 50 metres for Significant Woodlands. Planning Staff note that the County of Grey has not implemented the NHRM 2010 (whereby the adjacent lands are 120 metres) to-date since the 5 year review of the Official Plan pre-dates the NHRM 2010. The Town is the Planning Authority and must make decisions that have regard to all planning documents, as noted in the initial paragraph of the planning comments of this report. Since the proponent is not proposing any development or site alteration within the natural heritage feature or the adjacent lands, an EIS was not submitted with the submission. As such, Planning Staff recommend that a holding (-h) symbol be utilized on the natural heritage feature and the associated adjacent lands of 120 metres, until such time that an EIS has been completed to the satisfaction of the Town.

Section 2.8.6(2) states that no development or site alteration may occur within area of significant threatened or endangered species or the adjacent lands unless it has been demonstrated through an EIS that there would be no negative impacts on the natural features or their ecological functions. The adjacent lands, as noted in Section 6.19 of the Official Plan, would be 50 metres for Significant Threatened or Endangered Species. In this regard, there has been the 5 butternuts identified on the site through the site visit of GSCA; and MNR normally suggests a protective buffer of 25 metres around the butternut trees, as further stated in comments obtained from the GSCA. Planning Staff note that this encompasses the area associated with the significant woodlands and 120 metre adjacent lands, so no further land area would be constrained by this nature feature. Again, since the proponent is not proposing any development or site alteration within the natural heritage feature or the adjacent lands, an EIS was not submitted with the submission or a butternut health assessment due to seasonal issues to determine if the butternut trees are indeed retainable in accordance with the ESA. As such, Planning Staff recommend that a holding (-h) symbol be utilized on the natural heritage feature and the associated adjacent lands of 25 metres, until such time that an EIS has been completed to the satisfaction of the Town.

Under Appendix B of the Official Plan, there is a Earth Science ANSI (Gibraltar Moraine) in the northwest corner of the subject lands. Section 2.8.6(3) states that no development or site alteration may occur within an ANSI or their adjacent lands unless it has been demonstrated through an EIS that there would be no negative impacts on the natural features or their ecological functions. The adjacent lands, as noted in Section 6.19 of the Official Plan, would be 50 metres for an ANSI. Planning Staff note that the County of Grey has implemented the NHRM 2010, as it is requires the 50 metre adjacent lands. Planning Staff note that this encompasses the area associated with the significant woodlands and 120 metre adjacent lands, so no

further land area would be constrained by this nature feature. Again, since the proponent is not proposing any development or site alteration within the natural heritage feature or the adjacent lands, an EIS was not submitted with the submission. As such, Planning Staff recommend that a holding (-h) symbol be utilized on the natural heritage feature and the associated adjacent lands of 50 metres, until such time that an EIS has been completed to the satisfaction of the Town.

Therefore it is Planning Staff's opinion that the proposal conforms with the County Official Plan for this zoning by-law amendment proposal.

### **Town of The Blue Mountains Official Plan**

The Town of The Blue Mountains Official Plan designates the subject lands as Rural (R). The intent and purpose of the Rural designation is to provide for the continuation of agricultural practices in areas of generally lower capability soils while permitting other uses considered compatible with the rural environment. Permitted uses include agricultural operations and related buildings and structures.

Section 8.10(6) states that development and site alteration with threatened and endangered species habitat shall not be permitted; and may be permitted within the adjacent lands provided that an EIS is completed which demonstrates that there would be no negative impacts on the natural features or ecological functions. Again 5 butternut trees were identified by GSCA during the site visit; and these endangered species would be protected by utilizing the holding (-h) symbol on the implemented zoning by-law amendment, as detailed in the planning comments above.

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 Agent has submitted a MDS Study with the associated Planning Justification Report and notes that there no barns that would impact the subject lands with odour potential.

Section 8.14 states that the development and site alteration can be permitted within the ANSI – Earth Science (Gibraltar Moraine), provided that an EIS is completed which demonstrates that there would be no negative impacts on the natural features or ecological functions. Again, this would be protected by utilizing the holding (-h) symbol on the implemented zoning by-law amendment, as detailed in the planning comments above.

Under Appendix Map C, there is a Secondary Significant Sand and Gravel constraint within the northeast corner on the subject lands. Section 8.15 states that non-aggregate development may be permitted in aggregate resources area, nothing that a minimum development setback of 60 metres should generally be maintained. Planning Staff notes that the area to be rezoned far exceeds this setback and would not hinder the future extraction of the adjacent aggregate resource.

Therefore, it would appear that the proposed zoning by-law amendment conforms to the policies of the Official Plan.

## **Zoning By-law**

The subject lands are zoned General Rural (A1) and Public Industrial (M5) for the existing agricultural lot within the Township of Collingwood Zoning By-law 83-40, as amended. 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. With regards to the Public Industrial (M5) Zone, it is approximately 2 hectares (142 metres by 142 metres) in area that was zoned for the site location of the former communications tower. Planning Staff notes that the proponent wishes to construct a single detached dwelling within this area, and therefore has requested an amendment to the zoning by-law.

The purpose of this Application for Zoning By-law Amendment would be to amend the zoning associated with the former site location of a telecommunications tower by allowing for rural residential/agricultural uses to occur in this area, consistent with the abutting zoning, to ultimately develop a single detached dwelling.

In light of the public meeting and comments received, the amendment would protect a number of natural heritage features and the associated adjacent lands from site alteration and development. These natural heritage features included the butternut trees, the Gibraltar Moraine ANSI – Earth Science, and the significant woodlands from site alteration and development.

The effect of this By-law would be to rezone a portion of the lands from the Public Industrial (M5) Zone to General Rural (A1) Zone; and a portion of the lands from the General Rural (A1) Zone to the General Rural (A1-h) Zone. The holding –h symbol would be used in accordance with Section 36 of the Planning Act to require an EIS to be completed to the satisfaction of the Town in order to ensure no negative impacts to the natural heritage features. The draft by-law is appended to this report, as Attached Item #2.

## **Additional Comments**

### **Agency Comments**

Comments were received from the County of Grey - Planning and Development Department; GSCA; Niagara Escarpment Commission (NEC); and Grey-Bruce Health Unit (GBHU). These comments are summarized below.

The County of Grey - Planning and Development Department have no issues of concern with this proposal.

The GSCA have no issues of concern, provided that the holding (-h) symbol be extended to cover the 120 metre adjacent lands to the significant woodlands, so as to include the ANSI and its adjacent lands, as well as the butternut trees and the

buffer area. Planning Staff concurs with the GSCA, as rationalized in the planning comments above and have amended the draft by-law (Attached Item #2) accordingly for Council's consideration.

The NEC notes that the subject lands are not located within the Niagara Escarpment Plan (NEP) or within Development Control; and therefore have no issues of concern with this proposal. Planning Staff do note that the subject lands are adjacent to the NEP which commence on the east side of the 4<sup>th</sup> Line; and were circulated for comment in this regard.

The GBHU have no issues of concern with this proposal.

### **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 application; and therefore no further issues of concern has been raised for this proposal.

### **Public Meeting Comments**

It is noted that a mail out circulation of the Notices to area assessed property owners, as well as prescribed agencies, and publication in the November 9, 2012 edition of The Enterprise Bulletin Newspaper occurred with this planning application.

The public meeting was held on December 4, 2012, as required under the *Planning Act*. No outstanding additional comments were received through the Planning and Building Committee of Council Meeting with the public in attendance at the public meeting.

### **Written Correspondence Received From the Public**

It is noted that no written correspondence was received from the public on the proposal.

### **Additional Comments**

Based on the above, Planning Staff have no further additional comments on this planning application.

### **Summary**

Based on the foregoing, it is the opinion of Planning Staff that the proposed 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 this application for zoning by-law amendment as noted in this report.



### **C. The Blue Mountains' Strategic Plan**

The recommendation in this Planning Staff Report PL.12.150 is consistent and supports the following Strategic Plans Goals:

Strategic Plan goal #1:

*"Managing growth to ensure the ongoing health and prosperity of the community."*

And Strategic Plan goal #3:

*"Preserving and enhancing natural and environmental features, and cultural heritage of the community"*

### **D. Environmental Impacts**

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

### **E. Financial Impact**

N/A

### **F. In Consultation With**

Planning Staff has circulated the Notice of the application to all Town Departments for comment. These comments, if any, are noted above in this report under the subheading of Interdepartmental Comments.

**G. Attached**

1. Aerial Photograph of the Subject Lands, Spring 2010
2. Draft Zoning By-law Amendment

Respectfully submitted,

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Bryan Pearce, HBA, CPT, MCIP, RPP  
Planner, Planning and Building Services Department

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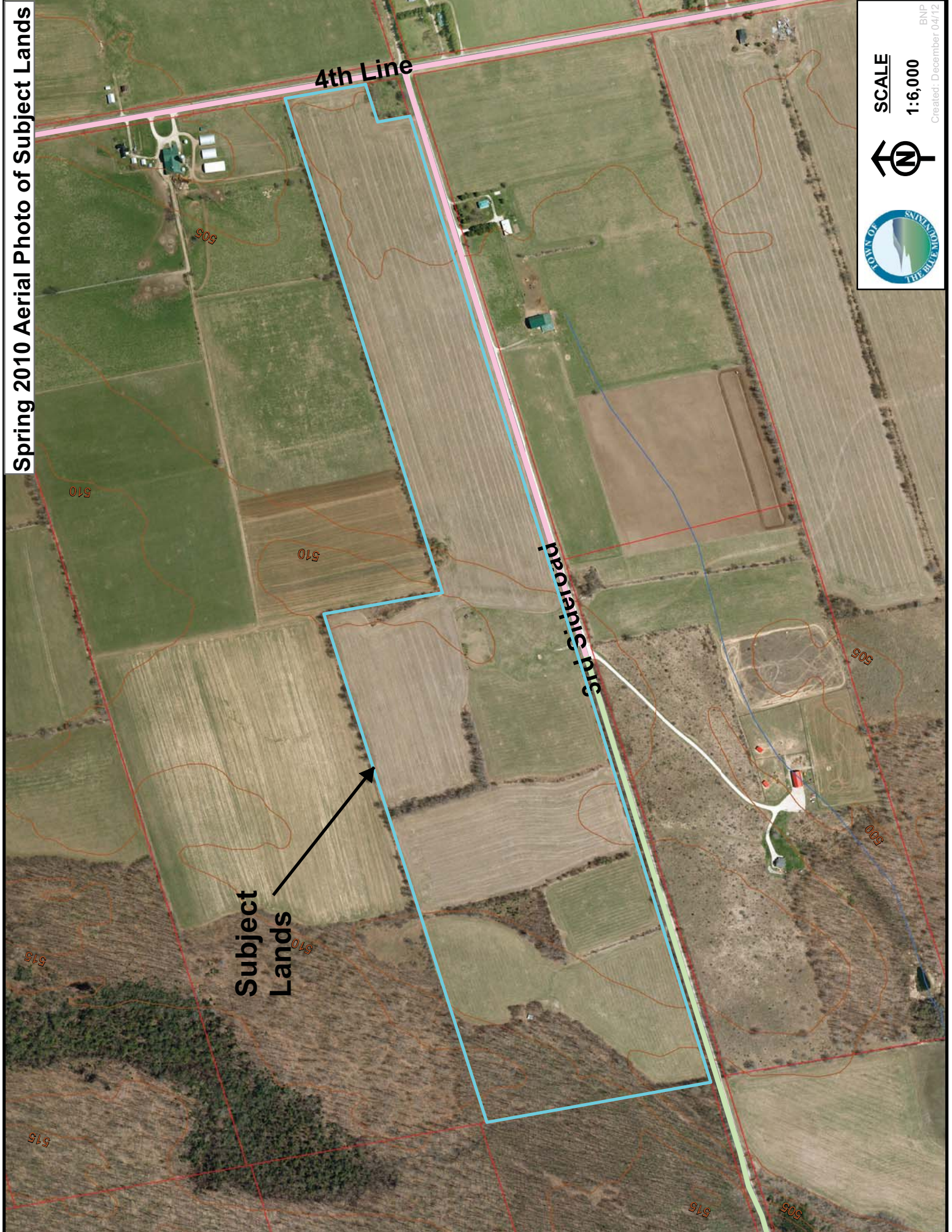
David Finbow  
Director, Planning and Building Services

**For more information, please contact:**

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Spring 2010 Aerial Photo of Subject Lands



Subject Lands

4th Line

4th Line



SCALE  
1:6,000

BNP  
Created: December 04/12

**THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS**

**BY-LAW NO. 2012 - \_\_\_\_\_**

Being a By-law to amend Zoning By-law No. 83-40  
which may be cited as "The Township of Collingwood  
Zoning By-law".

WHEREAS the Council of the Corporation of the Town of The Blue Mountains deems it  
necessary in the public interest to pass a by-law to amend By-law No. 83-40;

AND WHEREAS pursuant to the provisions of Section 34 and Section 36 of the  
Planning Act, R.S.O. 1990, c. P.13, the By-law may be amended by Council of the  
Municipality;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF  
THE BLUE MOUNTAINS ENACTS AS FOLLOWS:

1. Map A to Schedule 'A', of the Township of Collingwood Zoning By-law, being By-law 83-40 as amended is hereby further amended by rezoning the lands from the Public Industrial (M5) Zone to the General Rural (A1) Zone and from the General Rural (A1) Zone to the General Rural (A1-h) Zone for those lands lying and being in the Town of The Blue Mountains, comprised of South Part Lot 4, Concession 5; as indicated on the attached Key Map Schedule "A-1".
2. In accordance with the provisions of Section 36 of the Planning Act, R.S.O. 1990, c.P. 13, as amended, the holding symbol "h" shall not be removed from the whole or part of the lands until such time as the following has been completed:
  - (i) That an Environmental Impact Study be completed to the satisfaction of the Town, in order to ensure no negative impacts to the natural features and its associated ecological functions for the following:
    - a. Gibraltar Moraine Area of Natural and Scientific Interest – Earth Science, as well as the 50 metre adjacent lands;
    - b. Significant Woodlands, as well as the 120 metre adjacent lands; and
    - c. The 5 Butternut Trees, as identified in Grey Sauble Conservation Authority's letter dated December 3, 2012, as well as the 25 metre protective buffer.
3. Schedule "A-1" is hereby declared to form part of this By-law.

AND FURTHER that this By-law shall come into force and take effect upon the enactment thereof.

Enacted and passed this \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Ellen Anderson, Mayor

\_\_\_\_\_  
Corrina Giles, Clerk

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I hereby certify that the foregoing is a true copy of By-law No. 2012 - \_\_\_\_\_ as enacted by the Council of the Corporation of the Town of The Blue Mountains on the \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2012.

DATED at the Town of The Blue Mountains  
this \_\_\_\_\_ day of \_\_\_\_\_, 2012.


Signed: \_\_\_\_\_  
Corrina Giles, Clerk

# Town of The Blue Mountains

## Key Map Schedule A-1

By-Law No. 2012 - \_\_\_\_\_

 Subject Lands Of This Amendment

 Area Affected By This Amendment

