

STAFF REPORT: Town of The Blue Mountains Planning Department



REPORT TO: Mayor and Members of Council

MEETING DATE: Wednesday, September 3, 2008

REPORT NO.: PL.08.48

SUBJECT: Application for Consent
File No. B02-2008; and
Zoning By-law Amendment
John & Darlene Hewgill
East Part Lot 21, Concession 3;
Town of The Blue Mountains

PREPARED BY: Bryan Pearce,
Planner I
Robert Armstrong,
Manager of Development Planning & IS

A. Recommendations

THAT Planning Staff support Application for Consent File No. B02-2008, subject to the following conditions:

- 1. A Zoning By-Law Amendment to:**
 - a. rezone the natural hazard areas identified by Grey Sauble Conservation Authority to the Hazard (H) Zone;**
 - b. recognize the deficient lot area of the severed and retained parcels;**
 - c. recognize the existing accessory structure prior to having a main building constructed on the severed parcel; and**
 - d. identify a building envelope for a single detached dwelling in the far northeast corner of the severed parcel;**
- 2. The Payment of applicable Development Charges;**
- 3. The Payment of applicable Parkland Dedication Charges;**
- 4. That an Entrance Permit be obtained from the Engineering and Public Works Department for the severed parcel; and**
- 5. That the westerly interior side lot line of the severed parcel is no closer than 52 metres east of the bunk house to maintain the minimum septic system setbacks from the new lot line, to the satisfaction of the Grey-Bruce Health Unit and the Town by obtaining their approvals of the Reference Plan prior to Registration.**

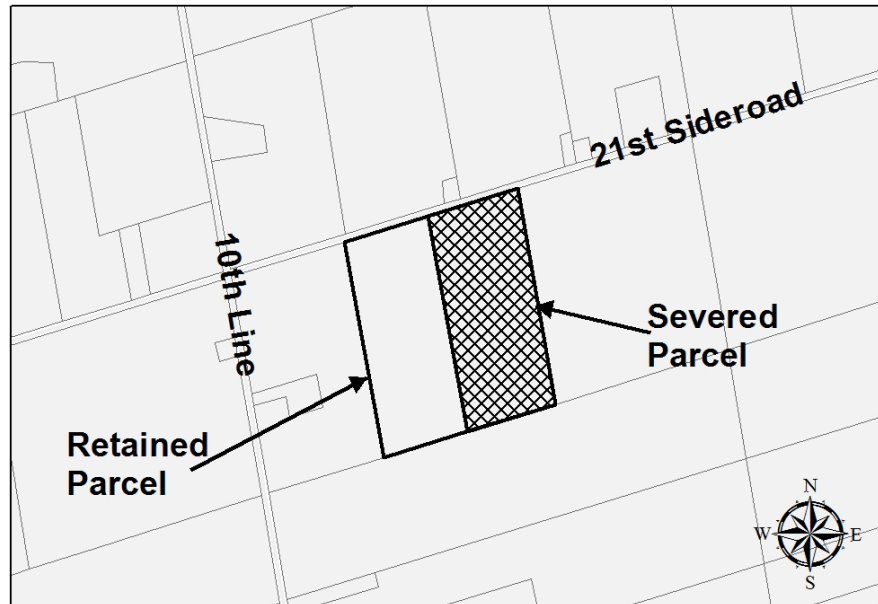
AND THAT Planning Staff support the Application for Zoning By-law Amendment to rezone the natural hazard areas identified by Grey Sauble Conservation Authority to the Hazard (H) Zone; to establish a new minimum lot area of 15 hectares for the retained and severed parcels in the General Rural (A1) Zone; to recognize the existing accessory structure on the effective date of passing of the amending by-law prior to having a main building constructed on the severed parcel; and to identify a building envelope for a single detached dwelling in the far northeast corner of the severed parcel.

B. Background

The purpose of this Application for Consent is to consider a request to sever a 15.18 hectare agricultural parcel, containing an existing drive shed; while retaining a 15.18 hectare agricultural parcel, containing an existing dwelling, bunk house and two storage sheds.

The subject lands are serviced by a private well and septic system, with frontage onto 21st Sideroad, an open and maintained public street.

The surrounding uses include agricultural lands to the north, east, south and west with a watercourse on the northeast and southern portions of the subject lands.



The Proponent has also filed an Application for Zoning By-Law Amendment in conjunction with the consent, as the consent proposal does not appear to comply with the Zoning By-Law regulations. 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.

Official Plan

The Town of The Blue Mountains Official Plan designates the subject lands as Special Agriculture (SA) and Hazard (H). 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, while the Special Agriculture further identifies the specialty crop lands that are ideally suited for orchards or other specialty crop purposes within the Municipality. The Hazard (H) designation recognizes the environmental and physical constraints associated with the two watercourses that flow through the property.

With regard to the consent, land use designation policies under Section 4.1.4(2) state that:

Consents which are intended to create new farm parcels from an existing farm unit may be considered in compliance with the following criteria:

- (a) *Both the severed and retained portions are to be maintained as viable farm parcels.*

- (b) *Both the severed and retained parcels shall be shown to have a soil and micro climate capability suitable to the type and intensity of agricultural operation proposed.*
- (c) *Both the severed and retained parcels for speciality crop lands shall contain an agriculturally productive area of not less than 10 hectares in area.*
- (d) *Consent shall be limited to one severance per farm unit existing on the date of passing of this Plan.*
- (e) *New farm dwellings and buildings shall be directed to a location with the least productive soils for farming*

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.

Planning Staff requested the applicant to conduct MDS-I calculations in April 2008 for the existing structures capable of housing livestock within 1000 metres of the subject property. The proponent submitted the data in July 2008, where Planning Staff calculated MDS-I to see if the existing barns (capable of housing livestock) impacted the proposed new lot.

The proponent's barn on the retained parcel and the barn on the adjacent parcel to the south impact the proposed new lot 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.

The lands are cropped with apple trees that are being used in orchard production, with the severed and retained parcel being larger than the 10 hectare minimum area identified in the Official Plan. The proponent proposes to build a new single detached dwelling on the northeast corner of the severed parcel, having the least impact on the orchard as there is a restriction with the associated watercourse on the northwest corner of the parcel and would be out of the MDS-I setback.

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 in the far northeast corner of the severed parcel.

Zoning By-law

The subject lands are zoned General Rural (A1) within the Township of Collingwood Zoning By-law 83-40. Permitted uses 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.

The proposed lot configuration does not appear to comply with the General Rural (A1) Zone regulations. 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. The effect of this By-law is to establish a new minimum lot area of 15 hectares for the retained and severed parcels in the General Rural (A1) Zone, as the current farm parcel is 30.4 hectares (75 acres). Also, there are two associated watercourses that will be required to be rezoned from the General Rural (A1) Zone to the Hazard (H) Zone to recognize the area of environmental constraint in which development is not permitted.

Planning Staff note that the existing drive shed on the proposed severed parcel is considered an accessory use under the zoning by-law and is regulated under Section 5.2 provisions of the Zoning By-law. The provisions of the by-law do not allow for accessory structures to be constructed prior to the main building. Planning Staff notes that the drive shed is accessory to the apple orchard production on the subject lands, but not to a main building, since the proponent can not construct the proposed single detached dwelling until registered as a separate parcel. Therefore the proposed amendment would also need to recognize the existing accessory structure on the effective date of passing of this By-law prior to having a main building constructed on the severed parcel.

Based on the sketch provided, it appears that once the severed parcel is transferred into different ownership that access to the drive shed will be using the existing driveway that connects into the retained parcels farmstead. The proponent can opt for creating a new driveway access to the drive shed on the severed parcel or continue to use the existing driveway, but the proponent will need to demonstrate that an entrance can be obtained on the severed parcel by filing an entrance permit with the Town's Engineering and Public Works Department, as a condition of consent.

Planning Staff also requires that an approximate one hectare building envelope for the proposed single detached dwelling be identified through the zoning by-law amendment in the far northeast corner of the severed parcel, as noted in the OMAFRA MDS Guidelines. It should be noted that the building envelope for the single detached dwelling has a front yard setback of 30 metres and an easterly interior side yard setback of 8 metres. The depth of the building envelope would extend to the 30 metre development setback from the watercourse. This development setback will be rezoned to the Hazard (H) Zone, as noted above in this report.

Additional Comments

Comments were received from the County of Grey - Planning and Development Department; Grey Sauble Conservation Authority; Grey Bruce Health Unit; and Niagara Escarpment Commission. These comments are summarized below.

The County of Grey Planning and Development Department states that Minimum Distance Separation (MDS) must be applied to the lot creation process. Provided MDS can be obtained, the County has no further concern. As detailed earlier in this report, Planning Staff have calculated MDS as per local official plan policies and there is space to locate the dwelling out of the MDS-I setbacks, thus creating a developable new lot.

The Grey Sauble Conservation Authority (GSCA) indicates that there are two watercourses flowing across the subject lands to the west; and that these natural hazards be zoned as Hazard (H) in the Zoning By-Law Amendment. Planning Staff have updated the proposed by-law to represent the Hazard Area, to reflect GSCA's concerns. The GSCA further requires a permit be obtained from their office prior to the construction of buildings, structures, or the temporary or permanent placement of fill within the regulated area.

The Grey Bruce Health Unit indicates that the Ontario Building Code requires a minimum horizontal distance between distribution pipe of a sewage system and property lines of 3m be maintained. Therefore the new property line created as a result of the severance must be no closer than 52 metres (170 feet) east of the bunk house to maintain compliance. Planning Staff note that the Ontario Land Surveyors must ensure this setback is maintained and will be addressed as a condition of consent.

The public meeting was held on the 7th day of April, 2008, as required under the Planning Act. Council questioned if the proponent was planning on building a new dwelling. Planning Staff noted that with a lot creation that it would permit a new single detached dwelling to be constructed on the severed parcel. No issues of concern were raised by the public.

The Town's Engineering and Public Works Department requires an entrance permit be obtained on the severed parcel, as a condition of consent.

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.08.48 is consistent and supports the following Strategic Plans Goals:

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

D. Budget Impact

NIL

E. Attached

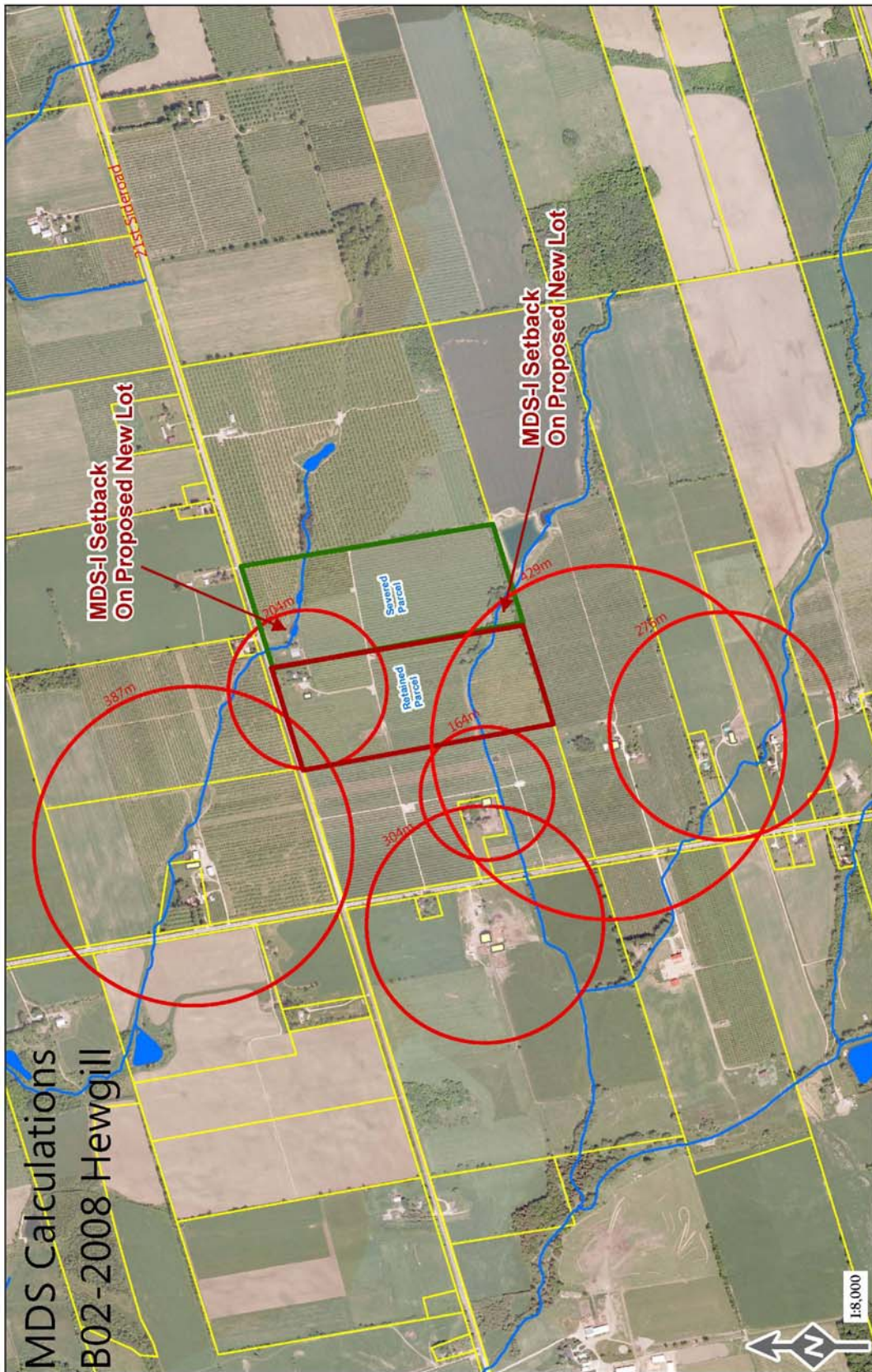
1. MDS-I Setbacks
2. Draft Zoning By-law Amendment

Respectfully submitted,

Bryan Pearce, HBA, CPT
Planner I

Robert Armstrong, MCIP, RPP, CPT
Manager of Development Planning & IS

Attached Item 1: MDS-I Setbacks



THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

BY-LAW NO. _____

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 of the Planning Act, 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 a portion of the subject lands from the General Rural (A1) Zone to the Hazard (H) Zone for those lands lying and being in the Town of The Blue Mountains, comprised of North Part Lot 14, Concession 12; as indicated on the attached key map Schedule "A-1".
2. Notwithstanding the provisions of Section 8.2(a) for the General Rural (A1) Zone to the Zoning By-Law of the Township of Collingwood, being By-law 83-40, the minimum lot area shall be 15.0 hectares for those lands lying and being in the Town of The Blue Mountains, comprised of East Part Lot 21, Concession 10; as indicated on the attached key map Schedule "A-1".
3. Notwithstanding the provisions of Section 5.2(x) for the General Provisions to the Zoning By-Law of the Township of Collingwood, being By-law 83-40, that the existing accessory structure on the effective date of passing of this By-law be permitted prior to the construction of a main building for those lands lying and being in the Town of The Blue Mountains, comprised of East Part Lot 21, Concession 10; as indicated on the attached key map Schedule "A-1".
4. Notwithstanding the permitted use of Section 8.1(b) for the General Rural (A1) Zone to the Zoning By-Law of the Township of Collingwood, being By-law 83-40, a single detached dwelling shall be located within the building envelope identified on Schedule "A-1".
5. 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 _____ day of _____, 2008.

Ellen Anderson, Mayor

Stephen Keast, Clerk

I hereby certify that the foregoing is a true copy of By-law No. _____ as enacted by the Council of the Corporation of the Town of The Blue Mountains on the _____ day of _____, 2008.

DATED at _____

this _____ day of
_____, 2008.

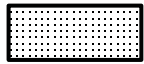
Signed: _____
Stephen Keast, Clerk

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Town of The Blue Mountains

Key Map Schedule A-1

By-Law No. _____



Area To Be Rezoned To The Hazard (H) Zone



Area Affected By Section 2 Of This Amendment



Area Affected By Section 3 Of This Amendment



Building Envelope For A Single Detached Dwelling,
As Identified By Section 4 Of This Amendment

