

Addendum to Report PDR-PCD-25-14

To: Chair Wright and Members of the Planning and Community Development Committee

From: Alisha Buitenhuis, Planner

Meeting Date: February 17, 2015

Subject: **Addendum to 42-07-060-OPA-125 Von Westerholt Farms Ltd. and Lavolit Ltd. Merit Report**

Status: Recommendation adopted by Committee as presented per Resolution PCD25-15; Endorsed by County Council March 3, 2015 per Resolution CC45-15;

Recommendation(s)

THAT the proposed amendment to the County of Grey Official Plan to re-designate the subject lands from 'Rural' to 'Rural with Exception' for the lands described as Lot 19 and Part of Lot 20, Concession 1, geographic Township of Egremont in the Township of Southgate, to allow for the severance of a residential parcel containing a dwelling and a pond be supported;

AND THAT the Addendum to Report PDR-PCD-25-14 be received;

AND FURTHER THAT the appropriate by-law be prepared for consideration by County Council.

Background

The County of Grey has received an application to amend the County Official Plan to allow for the severance of a dwelling from a lot that has been previously merged on title. The merged lot contains two residences. The reason for the application is that the maximum permitted density for the original lot and concession has been exceeded. Further, lot creation within an Aggregate Resource Area is not permitted by the County Official Plan, and Minimum Distance Separation requirements would not be met by the proposed severance.

The subject property is approximately 197 acres in area and is legally described as Lot 19 and Part of Lot 20, Concession 1, geographic Township of Egremont in the

Township of Southgate. The property contains two dwellings, multiple barns and silos, and a large pond. The majority of the subject lands are currently farmed.

The subject property is located south east of the intersection of Highway 6 and Grey Road 9, approximately 1.39 kilometres west of Holstein. The surrounding area consists of mostly farm uses, but there are a few non-farm residential uses to the south of the subject lands. Much of the lands surrounding the property are designated as Agricultural, Rural, and Hazard Lands, with Space Extensive Commercial and Industrial designations across Highway 6.

Cuesta Planning Consultants Inc. has submitted a Planning Justification Report in support of the proposed amendment. No other reports or studies were deemed necessary at the time of pre-submission consultation.

A Municipal Zoning By-law Amendment and Consent Application will be required from the Township of Southgate.

A Joint Public Meeting was held on October 22, 2014. Minutes from that meeting can be found here: [Public Meeting Minutes - Von Westerholt Farms](#)

Map 1 – Location of Subject Lands



Agency/Public Comments Received

Historic Saugeen Metis

In a letter dated August 25, 2014 the Historic Saugeen Metis stated they have no objection or opposition to the subject application.

Saugeen Valley Conservation Authority (SVCA)

In a letter dated August 28, 2014 the SVCA noted that the subject application is acceptable. They noted that portions of the property are subject to SVCA's Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation and as such the written permission of SVCA is required prior to any development in the regulated area.

Ministry of Municipal Affairs and Housing (MMAH), Ministry of Agriculture, Food and Rural Affairs (OMAFRA) and Ministry of Transportation (MTO)

In a letter dated August 29, 2014 MMAH, OMAFRA and MTO stated the following.

MMAH

Sections 1.1.5.2 and 1.1.5.4 permits limited residential development where it is compatible with the rural landscape. MMAH notes that the dwelling currently exists and is compatible with the surrounding rural landscape and is appropriate for rural service levels and infrastructure. Further, the County must ensure that further subdivision of the subject lands or new residential development is not permitted.

Section 1.1.5.9 requires that new lots shall comply with the Minimum Distance Separation (MDS) formulae. The Township and County, in consultation with OMAFRA, must ensure that MDS calculations satisfy MDS guidelines.

Section 2.1.1 requires natural features and areas to be protected for the long term. MMAH notes the natural heritage features within the severed parcel. The County should ensure that these features, as part of a larger system, are not negatively impacted by the permitted uses of the subject lands.

Section 2.3.1 states that prime agricultural areas shall be protected for long-term agricultural use. MMAH notes that the remnant parcel of land contains prime agricultural land, and as such the County should ensure that the remnant parcel contains land

appropriate in size to continue agricultural uses for the long term and is protected through site specific provisions to avoid further residential development or subdivision.

Section 3.1.1 directs development to areas outside of hazardous lands adjacent to surface water subject to flooding and erosion hazards. MMAH notes that the dwelling in the severed parcel is an existing dwelling. The County and Town should ensure that the no new residential development is permitted within the severed and remnant parcels especially adjacent to hazardous lands.

OMAFRA

The subject application must comply with the Provincial Ministry Distance Separation Formulae as outlined in Sections 2.3.3.3 and 1.1.5.9 of the PPS, 2014. The objective of the Provincial Minimum Distance Separation Formulae (MDS) is to minimize nuisance complaints due to odour and, thereby, reduce potential land use conflicts. As per Guideline #8 of the MDS Implementation Guidelines (Publication 707), MDS I is applied to the proposed lot with an existing dwelling when the dwelling is presently located on the same lot as the subject livestock facility. According to the Planning Report prepared by Cuesta Planning Consultants Inc., June 2014, the proposed severance of a residence surplus to a farming operation does not meet the required MDS I distance for the livestock facilities on the subject property. OMAFRA does not recommend varying MDS I distances except in accordance with MDS Guideline #46. As per MDS Guideline #46, circumstances that meet the intent, if not the precise distances of MDS I may warrant further consideration for a minor variance.

Additionally, no MDS I calculations were provided with the application, therefore, OMAFRA is unable to determine if the MDS I calculations have been completed correctly.

Also, as per MDS Guideline #8, the proposed severance does not need to meet MDS I to the livestock facilities across the road, west of the subject property, unless the County of Grey or the local municipality has chosen to apply MDS I in this circumstance. Direction to apply MDS I in this circumstance should be clearly indicated in the municipality's planning documents.

In accordance with Section 2.3.4.1.c of the PPS, 2014, the Township of Southgate must also ensure that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance.

The County would be supportive of a variance from the MDS requirements regarding the barn to the west of the subject property. Upon seeing the calculations, the difference between the required and actual setbacks is approximately 25 metres, which can be considered minor. In addition, the barn would not be able to expand regardless of whether the proposed severance is approved or not, and therefore there will be no further restrictions created beyond the restrictions that exist today.

The applicants have agreed to rezone the barns on the subject lands for dry storage only. As livestock would no longer be permitted on the lands, MDS does not apply and there would be no conflict in the future.

MTO

MTO has no objection to the approval of this application. MTO recognizes that the existing residence at 311827 Highway 6 already has access to Highway 6. Should this application be approved, the new property owner for 311827 Highway 6 will require an Entrance permit for a change in ownership from MTO.

MTO also supports the proposal contained in the Planning Report that the Township of Southgate Zoning By-law Amendment should rezone the remnant parcel to prohibit future residential development and recognize lot area and setbacks from the pond.

Township of Southgate

In a letter dated February 1, 2015, Township of Southgate staff stated that the Official Plan Amendment is appropriate and justified, provided that the MDS requirements are recognized in a zoning by-law amendment and the balance of the lands are rezoned to prohibit further residential development.

Marilyn Streeter

In a letter dated August 7, 2014 Marilyn Streeter stated the following concerns:

1. That notices are being directed to the wrong owner.
2. That there is no explanation in the notice of what "Rural" designation to "Rural with Exceptions" means and entails.
3. The key map on the back of the sheet does not show the correct property or the description of the severance is incorrect.
4. The description that the property is 4 hectares more or less and that the property contains a dwelling and a pond is incorrect. The shaded diagram extends from Grey Road 9 and if so then contains two dwellings, a pond and barns.
5. I wish to have a correct and exact description of what property has been applied for severance and for what purpose.

Staff responded to this letter and addressed each concern. Municipal Property Assessment Corporation (MPAC) was used to address the letter and it had not been properly updated. Staff explained the amendment in greater detail and also explained that the 4 hectare parcel referred to was the severed parcel, not the entire property as it exists today. It was also explained that the key map was correct. No further response has been received from Ms. Streeter.

Analysis of Planning Issues

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). Decisions must also conform to the County of Grey Official Plan and any Municipal Official Plans which are in force and effect.

Planning Act

Section 2 of the *Planning Act* sets out matters of Provincial Interest, which all land use decisions shall have regard for. Subsection (b), '*the protection of the agricultural resources of the Province*', and Subsection (c), '*the conservation and management of natural resources and the mineral resource base*', are the most applicable to this application.

No agricultural land will be taken out of production, and no additional development will be permitted on either the retained or severed parcel. The dwellings are existing and creating the lot will not further hinder future aggregate extraction.

Provincial Policy Statement

Section 1.1.5.4 of the PPS encourages development that is compatible with the rural landscape and can be sustained by rural service levels. Section 1.1.5.9 requires that new lots in rural areas comply with the minimum distance separation formulae. Section 2.4.1 requires that minerals and petroleum resources be protected for long-term use. Section 1.6.6.4 allows for individual on-site sewage and water services provided that site conditions are suitable for the long-term provision of such services.

The proposed amendment would not allow for any further development beyond what already exists. The minimum distance separation formulae conflicts are existing and would not be exacerbated by the subject proposal. The aggregate resource conflicts are existing as well and the proposal will not allow for further hindrance as no further development will be permitted. The site conditions are suitable for the provision of individual on-site services.

Grey County Official Plan

Section 2.3.4(2) of the County Official Plan allows for the creation of two lots plus the retained lot per 40 hectares in the Rural designation. Lot density is determined based on the original Township lot fabric and is pro-rated up or down based on the size of the original Township lot. Section 2.3.4(7) does not allow for non-farm lot creation within an Aggregate Resource Area, and Section 2.3.3(b) requires that the minimum distance separation formulae be met by new non-farm uses in the Rural designation.

The original Township lot was established as a 60 hectare parcel, and currently exists as two 20 hectare parcels, three residential parcels, and part of a 38 hectare parcel. Therefore, the permitted lot density has been exceeded. Further, the lands proposed to be severed are within an Aggregate Resource Area and located directly across the road from a livestock farming operation.

The two dwellings are existing, and no further development will be permitted. The density will not be increased beyond what already exists. As such, no further hindrance to aggregate extraction or new minimum distance separation formulae conflicts will be created.

Section 6.3 of the County Official Plan contemplates amendments to the plan, provided that the criteria of the relevant sections of the Plan can be addressed. Protecting farm operations and aggregate resource areas from incompatible uses are two of the major objectives of the Plan, as is maintaining an appropriate density of residential uses in the Rural designation.

The applicant has submitted a Planning Justification Report to address Provincial and Municipal land use policy.

Financial / Staffing / Legal / Information Technology

Considerations

There are no expected financial, staffing or legal considerations beyond those normally encountered in processing an Official Plan Amendment application. The County has received an amendment application fee and peer review deposit with the file.

Link to Strategic Goals / Priorities

The subject application is a private development application. The processing of such applications in a timely and efficient manner would fall under the Planning department's core business mandate.

This development application should have no direct impact on the County's ability to achieve corporate strategic goals and priorities.

Respectfully submitted by,

Alisha Buitenhuis
Planner

Director Sign Off: *Randy Scherzer*