

To:	Warden Halliday and Members of Grey County Council
Committee Date:	October 11, 2018
Subject / Report No:	PDR-CW-34-18 Georgian Bluffs Zoning By-law Report
Title:	Georgian Bluffs Comprehensive Zoning By-law 2018-084
Prepared by:	Randy Scherzer
Reviewed by:	Kim Wingrove
Lower Tier(s) Affected:	Township of Georgian Bluffs
Status:	Recommendation adopted by the Committee as presented as per Resolution <i>CW245-18</i> ; Endorsed by County Council on October 25, 2018 as per Resolution <i>CC105-18</i> .

Recommendation

1. That Report PDR-CW-34-18 be received;
2. That the County submit an appeal to the Local Planning Appeal Tribunal on the Township of Georgian Bluffs Zoning By-law 2018-084 with respect to the twenty (20) hectare minimum lot area provision in Table 7.2 of the by-law; and
3. That staff be directed to work with the Township to resolve this matter, with the goal of avoiding a hearing on the matter.

Executive Summary

On September 19, 2018 the Township of Georgian Bluffs passed a new Comprehensive Zoning By-law. Prior to passing the by-law, the Township undertook a robust public and agency consultation process. Grey County staff commented on three drafts of the by-law before the final version was passed. The Township made a number of changes to the by-law in response to public and agency comments. There is one outstanding lot area provision in the by-law at Table 7.2 that does not conform to the County's Official Plan. County and Township staff have discussed this matter, and Township staff will be recommending a change to the by-law to Township Council on October 10, 2018. The last date for appeal of the by-law is also October 10th (the deadline will lapse prior to the Council meeting). County staff recommend filing an appeal of the by-law to ensure that this provision can be changed accordingly. Under the provisions of the *Planning Act*, this change can be made, if supported by Township Council, without the need for a Local Planning Appeal Tribunal (LPAT) hearing.

Background and Discussion

The Township of Georgian Bluffs recently passed their new comprehensive zoning by-law 2018-084 to replace by-law 6-2003. The last date of appeal for this by-law is October 10, 2018. Grey County, in addition to a number of landowners and other agencies, commented on three drafts of the by-law throughout the public process. Township staff, their consulting team, and Township Council were very accommodating to the comments received and the by-law has been amended accordingly.

In reviewing the approved by-law, there is one provision which still represents a conformity concern with respect to the County Official Plan. More specifically Table 7.2 provides for a 20 hectare minimum lot area in the Agricultural, Rural, and Restricted Rural zones. This 20 hectare minimum size provision is appropriate for the Rural and Restricted Rural zones, but represents a conflict in the Agricultural zone, where the County Plan requires a 40 hectare lot. Under the *Planning Act* zoning by-laws need to conform to the applicable Official Plans.

County and Township staff have spoken on this matter, and Township staff noted that this was an oversight. Township staff are supportive of this change, and will be recommending as such to Township Council on October 10th.

However, because the appeal deadline is also on October 10th, it's necessary for the County to appeal the by-law to preserve the ability to make this change. In accordance with the County's appeal protocol (see Attachments section), County staff are recommending an appeal to the by-law. Based on some recent changes to the *Planning Act*, this appeal could be dealt with by the Township before needing to send the appeal to the Local Planning Appeal Tribunal. In the event that other appeals are received as well, staff are confident that minutes of settlement could be reached very quickly.

Analysis of Planning Issues

When rendering a land use planning decision, planning authorities must have regard to matters of Provincial Interest under the *Planning Act*, be consistent with the Provincial Policy Statement (PPS) 2014, and conform to any Provincial Plans or Municipal Official Plans that govern the subject lands. The Niagara Escarpment Plan covers portions of the Township; however, the zoned agricultural areas in question would be outside of the Niagara Escarpment Plan area boundaries. The Township of Georgian Bluffs Official Plan only pertains to their settlement areas, and therefore is not applicable to agricultural lot size provisions of their zoning by-law. The County Official Plan is applicable to this section of the Township's zoning by-law.

Provincial Policy and Legislation

Both the *Planning Act* and the PPS speak to the protection of agricultural resources across the Province. The *Planning Act* under section 2(b), and the PPS under section 2.3 emphasize the need for such protection. Section 2.3.4.1 of the PPS requires lot creation in agricultural areas to be “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.”

Through working with Provincial staff, the recognized farm lot size, outside of specialty crop areas, has been determined to be 40 hectares in area.

County Official Plan

The County Official Plan contains similar protections to the *Planning Act* and the PPS. Section 2.1.3 of the County Plan states;

“In the Agricultural designation newly created farm lots should generally be 40 hectares (100 acres) in order to discourage the unwarranted fragmentation of farmland. It is not intended to prevent the creation of smaller farm parcels where they 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 operation. Local Municipalities will be encouraged to establish minimum farm parcel sizes appropriate to the agricultural area in the Local Municipal Official Plan and/or Secondary Plan.

In order to determine if a proposed farm parcel is sufficiently large enough to maintain flexibility for future changes the applicant shall demonstrate that similar continuously active farm operations exist in the area which are of a comparable size and type. Where the original Township lot is less than 40 hectares, in no case shall the severed or retained lots be smaller than the original Township lot.”

The consent policies under section 2.1.4 of the Plan further reiterate the 40 hectare farm lot provisions.

With the Township by-law being approved using a 20 hectare minimum lot area for the Agricultural zone, this would represent a conflict with the County Official Plan. To avoid any conflict and to be consistent with other zoning by-laws across the County, staff are recommending that the by-law be appealed so that Georgian Bluffs can make this change.

Legal and Legislated Requirements

Based on the provisions of the *Planning Act*, if the by-law is not appealed, then it will come into force and effect and be considered applicable law. To change the by-law after it comes into force and effect would require a by-law amendment, with a new notification and public process. Having a by-law which does not conform to the County Official Plan could lead to confusion, and inconsistent land use decisions compared to other municipalities across the County.

Based on the provisions of the *Planning Act* section 34(20.1), dispute resolution techniques may be used to resolve the appeal, which would avoid the need for a LPAT hearing. Both County and Township staff have already agreed in principle on the resolution to this matter. Should Township Council approve the recommended solution, then this matter can be resolved quickly and efficiently. Staff are hopeful that the matter can be resolved such that the Township does not have to process the appeal to LPAT, and the County can withdraw their appeal. The *Planning Act* under section 34(23.3) states;

“If all appeals to the Tribunal under subsection (19) are withdrawn within 15 days after the last day for filing a notice of appeal, the decision of the council is final and binding.”

Financial and Resource Implications

There are no significant anticipated financial, staffing or legal considerations associated with the proposed appeal at either the County or Township level. There is a \$300.00 appeal fee payable by the County, however if the matter can be resolved prior to needing to submit the appeal to LPAT, then this fee may not be needed. Should the appeal be submitted to LPAT, then limited staff time may be needed to resolve the matter. Legal resources, if any, will also be minimal and may only be needed to execute minutes of settlement, or should someone object to the proposed change.

Relevant Consultation

- Internal: Planning, Finance and CAO
- External: Township of Georgian Bluffs

Appendices and Attachments

[PDR-PCD-08-13 Ontario Municipal Board Attendance](#)