

To:	Warden Halliday and Members of Grey County Council
Committee Date:	May 10, 2018
Subject / Report No:	42-07-060-OPA-141 / Addendum to Report PDR-CW-03-18
Title:	Official Plan Amendment 141 Final Report
Prepared by:	Stephanie Lacey-Avon
Reviewed by:	Randy Scherzer
Lower Tier(s) Affected:	Township of Southgate
Status:	Recommendation adopted as presented by Committee of the Whole as per Resolution CW126-18;

Recommendation

1. That all written and oral submissions received on Official Plan Amendment Number 141 were considered and helped to make an informed recommendation and decision; and
1. That Addendum to Report PDR-CW-03-18 be received, and that Amendment Number 141 to consider an amendment to the County of Grey Official Plan on lands designated 'Agricultural', 'Rural' and 'Hazard Lands', to permit a lot addition of 4.8 hectares to the neighboring lands to the west, for the lands described as Part Lot 8, Concession 5 (043836 Southgate Road 4), geographic Township of Egremont, in the Township of Southgate, be supported, and a by-law to adopt the County Official Plan Amendment be prepared for consideration by County Council.

Executive Summary

A proposed County official plan amendment application (42-07-060-OPA-141) has been submitted to amend the consent policies, to permit a lot addition for lands designated 'Agricultural', 'Rural', and 'Hazard Lands'. County Agricultural consent policies currently do not permit this exact type of lot adjustment, but consideration for this type of application is identified at the Provincial level. This amendment application would improve access to the severed parcel for farming purposes. Accompanying the official plan amendment application, are applications for a local official plan amendment, zoning by-law amendment, and consent to the Township of Southgate. It is recommended that Amendment Number 141 be supported and a by-law to adopt the amendment be prepared for consideration by County Council.

Background and Discussion

The County has received an application from the owner at 043836 Southgate Road 4 to amend the Grey County Official Plan. The subject lands are legally defined as Part Lot 8, Concession 5, former geographic Township of Egremont, in the Township of Southgate, located approximately 3.3 kilometres east of Mount Forest. The property contains a detached dwelling, and the owner's son is currently building a second house on site in anticipation of purchasing the subject property. The original house will be demolished once the second house is finalized.

The amendment would allow an exemption to the 'Agricultural' consent policies 2.1.4(1) and 2.1.4(2) to permit a lot addition. County official plan agricultural consent policies permit one lot to be created, provided the original farm parcel is a minimum of 40 hectares, and no lot creation has been provided for in the past or a residence is deemed surplus to a farm operation as a result of farm consolidation. Lot additions are also discouraged in agricultural lands unless the retained parcel also maintains a lot area of 40 hectares or more. The subject lands are currently 10.9 hectares in size and there has been one previous severance (non-farm residential lot) from the original Crown parcel situated on the north east portion of the subject property.

There are two fields that exist on the subject site, one comprising 4.6 hectares and the other 1.4 hectares respectively. Both are actively cash-cropped, while the remaining area is forested. The proponent owns the adjacent 13 hectare parcel, situated west of the subject lands at 471193 Southgate Sideroad 47. Due to the large forested area and hazardous lands on the subject site, access to the 1.4 hectare field can only be achieved by traversing the adjacent property to the west. A tributary of the Saugeen River exists within the forested lands, located on the northwesterly corner of the subject property.

Immediately to the south of the subject property is the Saugeen River. A reference plan was recently prepared, identifying the Saugeen River as Crown Land. Lands on both sides of the navigable watercourse are legally viewed as separate parcels of land. Deeds to this effect have been recently prepared for both parcels and have been registered on title.

This lot addition would result in the reduction of the subject property from 10.9 hectares of land to 6.1 hectares. Approximately 4.8 hectares will be added to the neighbouring property to the west, which will increase the parcel size from 13 hectares to roughly 17.8 hectares. No new lot would result from this lot addition.

The proposed development also requires an amendment to the Township of Southgate Official Plan, an amendment to the Township of Southgate Zoning By-law, and consent to sever.

Map 1 below shows the subject lands and surrounding area.

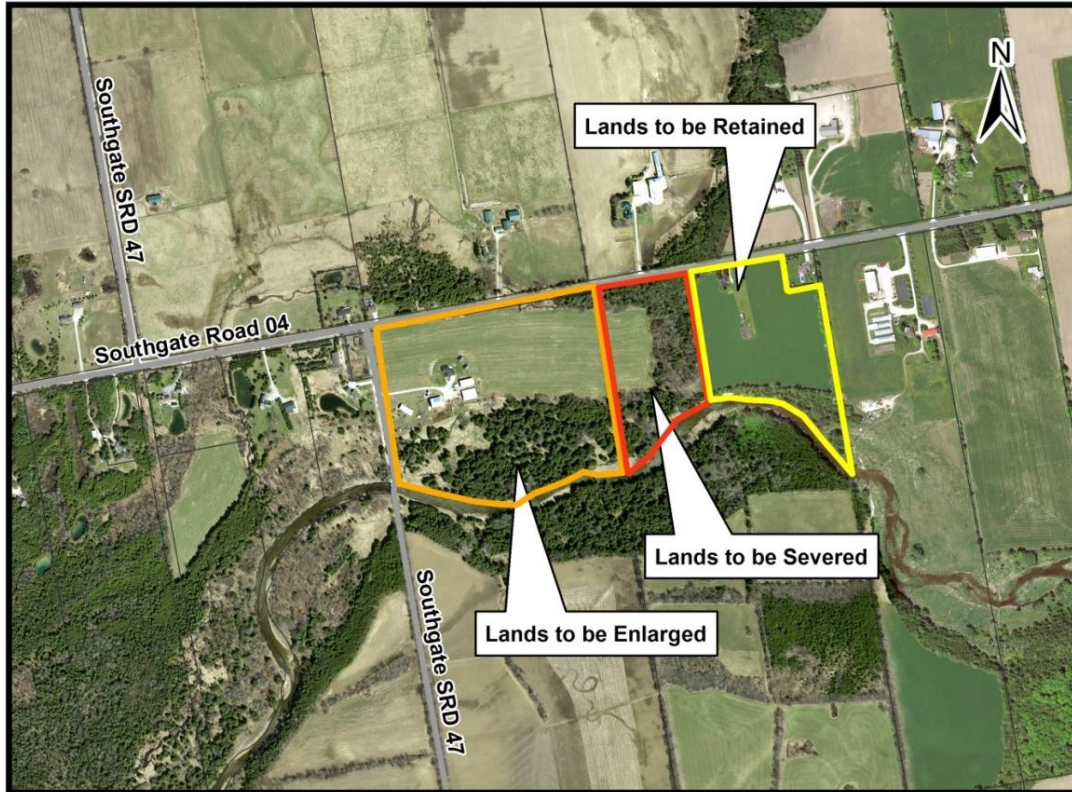


Map 1: Airphoto of the Subject Property and Surrounding Lands

Surrounding the subject lands are woodlands and the Saugeen River to the south. To the east, west and to the north of the property is a mixture of hazard lands and areas that are currently in agricultural production.

Ron Davidson, Land Use Planning Consultant Inc. has submitted a Planning Justification Report in support of the proposal. A copy of this report and background materials can be found at the below link.

[Link to OPA 141 Background Materials](#)



Map 2: Proposed Severance (lands to be severed in red, located in the middle)

A joint public meeting with the Township of Southgate was held on March 28, 2018. A copy of the minutes from the public meeting can be found at the below link.

[Public Meeting Minutes](#)

Public and Agency Comments Received

Public Comments

There were no comments received from the public.

Agency Comments

Comments were received from the following agencies.

Historic Saugeen Metis, dated January 12, 2018

The Historic Saugeen Metis (HSM) Lands, Resources, and Consultation Department have reviewed the relevant documents and have no objection or opposition to the proposed development, land re-designation, rezoning, land severance, Official Plan and/or Zoning By-law Amendments.

Saugeen Conservation Authority (SVCA), dated January 23, 2018

All of the plan review functions listed in the Agreement have been assessed with respect to the applications. The proposed County of Grey official plan amendment; proposed Township of Southgate official plan amendment; and proposed Township of Southgate zoning by-law amendment are acceptable to SVCA staff.

Township of Southgate, March 29, 2018

We have Township of Southgate staff comments that convey they are in general support of the application.

Analysis of Planning Issues

In rendering decisions, planning authorities must have regard to matters of Provincial interest under the *Planning Act*, and be consistent with the Provincial Policy Statement (PPS). Decisions within the County must also conform to the County of Grey Official Plan, and any Municipal Official Plans or Provincial Plans in effect. In this case, the Niagara Escarpment Plan is not in effect for this property.

Provincial Interest – Legislation, Policy, Guidelines

Section 2 of the *Planning Act* sets out matters of Provincial interest, which all land use decisions shall have regard for in rendering any decision under the Act. Most notable to this proposed Official Plan Amendment are the following clauses, with some staff comments below.

(a) the protection of ecological systems, including natural areas, features and functions,

There are no significant environmental features mapped in the area to be severed on the subject lands. The proposed development site is adjacent to the Saugeen River and small pockets of Significant Woodlands. There will be no impact on these environmental features, as development already exists on the severed parcel and retained parcels and the application is simply for a lot addition.

(b) the protection of agricultural resources of the Province,

The proposed development will not remove any lands out of agricultural production, and no lands being conveyed as part of the lot addition are designated 'Agricultural'. The subject lands to be severed are designated 'Rural' and 'Hazard Land'. The lot addition is intended to facilitate access to the agricultural lands, currently being cash-cropped.

(f) the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;

The provision of effective water, wastewater, and communication systems has not been questioned for this application. No new residential dwellings are proposed to be built as a condition of this application.

Currently the subject lands are accessed by travelling west along Southgate Road 04, and traversing the adjacent 13 hectare farm property currently owned by the proponent. Long term access to the subject lands is subject to both property owners agreeing to the above

arrangement. Traffic conditions will be influenced from this lot addition application, as there would be no requirement for the farmer of the subject lands to travel along the roadway with farming equipment to access the 1.4 hectare field.

(o) the protection of public health and safety,

By reducing the need for the farmer to travel along Southgate Road 04 to access the subject property with farming equipment, this would alleviate road safety concerns that are inherent when dealing with different vehicular road user type compatibility.

The proposed official plan amendment has regard for matters of Provincial interest under the *Planning Act*.

Provincial Policy Statement (PPS 2014)

Section 2.3.1 of the PPS describes how prime agricultural areas shall be protected for long-term use for agriculture.

Section 2.3.4.1 of the PPS provides conditions where lot creation in agricultural lands would be permitted.

- (a) Lot creation would be permitted for agricultural uses common in the area, provided the severed and retained lots are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations.
- (b) Lot creation would be permitted for agricultural-related uses, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services;
- (c) Lot creation would be permitted for a residence surplus to a farming operation as a result of farm consolidation.

Section 2.3.4.2 of the PPS states lot adjustments in prime agricultural areas may be permitted for legal or technical reasons. As further defined by the PPS, legal or technical reason means severances for purposes such as easements, corrections of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot. The term 'minor boundary adjustment' is not further defined by the PPS. The subject application is looking to rectify an unfavorable lot configuration in order to improve access to the agricultural lands and sustain the long-term use of these lands. The proposed lot addition would remove 4.8 hectares from the subject property, and would add these lands to the adjacent farming property to the west. A minor boundary adjustment is requested, as the subject applicant would like to convey the field in question prior to selling the subject property. This severance does not affect the farming viability of the retained parcel, because the lands being severed were historically farmed by the adjacent property owner.

Section 2.3.3.3 of the PPS requires Minimum Distance Separation (MDS) formulae to be met for new land uses or the creation of lots. MDS setbacks can be met for the lot severance, and all required setbacks have been exceeded.

Section 2.1 of the PPS requires the protection of significant natural heritage features across the Province. Development and site alteration shall not be permitted in significant wetlands, coastal wetlands, woodlands, valleylands, areas of natural and scientific interest, and significant wildlife habitat. There are identified woodlands to the south and north of the subject property.

Furthermore, section 2.1.6 of the PPS prohibits development and site alteration in fish habitat except in accordance with provincial and federal requirements.

Development is defined by the PPS as the creation of new lots, a change in land use, or the construction of buildings and structures requiring approval under the Planning Act. SVCA staff have not raised any environmental concerns regarding the environmental features in proximity to the subject lands. No development is proposed within the natural heritage features identified within the PPS.

Section 2.3.6.1 of the PPS aims to protect aggregate extraction operations or areas of potential future aggregate extraction. On these designated lands, policy permits limited non-residential uses provided a number of conditions are met, and the extraction of minerals, petroleum resources and mineral aggregate resources. No non-residential development is proposed as part of this application, which should not hinder the possibility of future aggregate extraction.

Section 1.6.6 of the PPS speaks to ensuring new development can be adequately serviced with municipal water and sewer, or on-site private services. No new residential buildings are proposed as part of the subject application; therefore, servicing requirements are not relevant to this application.

Proposed Amendment 141 is generally consistent with the PPS.

County of Grey Official Plan

All new development proposals within the County must conform to the purposes and policies of the Official Plan.

The proposed amendment to the County official plan would not be changing the principle use of the farm; it would reduce the 10.9 hectare subject property to 6.1 hectares. Approximately 4.8 hectares will be added to the neighbouring property to the west. Both the subject property and the neighbouring property are currently being farmed, but are not farm-sized (40 hectares) as per the County Plan. The lands subject to the severance are designated as 'hazard lands' and 'rural in the County official plan, and the remaining lands are designated 'agricultural'. The land use designations are illustrated in Map 3 below. As part of the policy review process, the proposed application is evaluated against the 'agricultural' policies as they are the more restrictive consent policies.

Section 2.1.4(1) of the County official plan permits consent for one lot provided the original farm parcel is a minimum of 40 hectares and no lot creation has been provided for in the past.

Section 2.1.4(2) of the County official plan permits,

consents where the land being conveyed is to be added to an existing use or to provide for minor lot line adjustments or correct lot boundaries. The granting of such a consent shall not be permitted if it results in the creation of an undersized remnant lot except in the case of a lot created for conservation purposes by an approved conservation organization.

The original 40 hectare farm has been naturally divided into separate parcels due to the Saugeen River traversing through the subject property. A reference plan was recently prepared, identifying the Saugeen River as Crown Land. Lands on both sides of the navigable

watercourse are legally viewed as separate parcels of land. Deeds to this effect have been recently prepared for both parcels and have been registered on title.

The County generally discourages lot additions to non-farm lots as per policy 2.1.4(2). An amendment is required to the County official plan, because neither the retained parcel, nor the expanding adjacent property will comprise 40 hectares, and a severance from the original Crown parcel has been provided for in the past – situated on the north east corner. Based on existing lot configuration and landscape features, the following discusses why a lot addition under the given scenario makes sense.



Map 3: Land Use Designations (Rural, Hazard Lands, and Agriculture)

Appendix B of the County official plan identifies significant woodlands immediately to the south of the subject property, as well as on lands north of Southgate Road 04. The policies limit development or site alteration within Significant Woodlands or their adjacent lands unless it has been demonstrated through an Environmental Impact Study, as per section 2.8.7 of the County official plan, that there will be no negative impacts on the natural features or their ecological functions. Saugeen Valley Conservation Authority provided comments January 23rd, 2018 with respect to the natural heritage features on the subject property. From their analysis, the subject lands were identified as being within the adjacent lands from the identified woodlands. There was also mention that the woodlands on the subject property could also be classified as significant, despite what the County mapping includes. SVCA staff concluded that, by the very

nature of this application, the impact on the woodlands would be negligible. Preparation for an EIS was not warranted.

Appendix B of the County official plan also identifies 'other identified wetlands' in proximity to the subject property. Although, these wetlands exceed the adjacent lands outlined by the County official plan, and SVCA staff had no concerns or comments.

Appendix B further identifies the Saugeen River that runs east west, along the southern end of the subject property, and a tributary of the South Saugeen River, that flows east to west along the northwest portion of the property. County official plan policy 2.8.6(5) states,

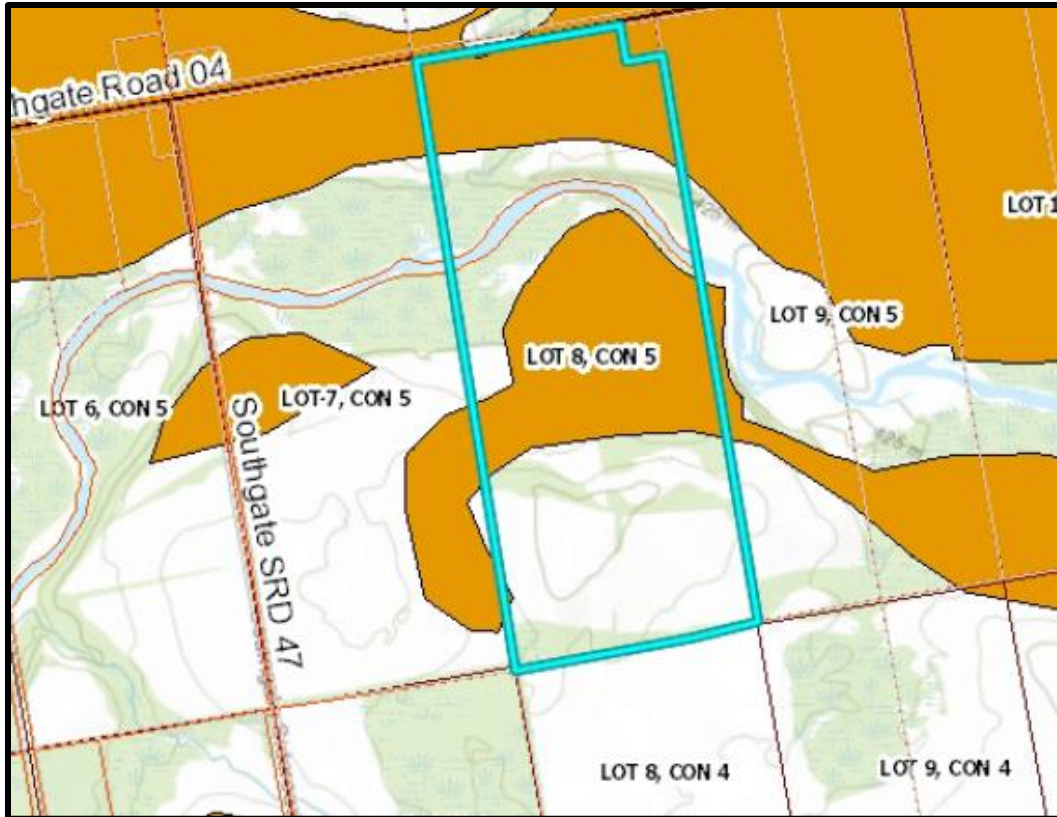
No development shall be permitted within 30 metres of the banks of a stream, river, lake, or Georgian Bay. Where an Environmental Impact Study prepared in accordance with Section 2.8.6(4) of this Plan concludes setbacks may be reduced and/or where it has been determined by the appropriate Conservation Authority these setbacks may be reduced. Landowners are encouraged to forest the areas within 30 metres of any stream to maintain and improve fish habitat, ecological function of the stream and to increase natural connections.

The subject lands are within the adjacent lands of the river but no change in land use is proposed, or the construction of buildings and structures requiring approval under the Planning Act is considered as part of these applications. The river and fish habitat are not anticipated to be disturbed. SVCA staff are of the opinion that the preparation of an EIS to address the adjacent lands to fish habitat would serve no useful purpose.

Development criteria policies listed under Section 2.1.3(4) states:

On areas identified as an Aggregate Resource Area on Schedule B to this Plan, as well as within 300 metres of areas identified as Mineral Resource Extraction on Schedule B, 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 future aggregate extraction or represent an incompatible land use. It must be demonstrated to the appropriate approval authority that:

- (i) the extraction of the aggregate resource is not feasible due to the quality or quantity of material or the existence of incompatible development patterns. The quality and quantity of the material will be determined by having a qualified individual dig test pits within the area proposed for the non-farm development as well as the adjacent lands within 300 metres of the proposed non-farm development; or that*
- (ii) the proposed land use or development serves a greater long term interest of the general public than does aggregate extraction; and*
- (iii) issues of public health, public safety and environmental impact are addressed*



Map 4: Aggregate Resource Area

As reflected in Schedule B of the County official plan, a portion of the subject property is an identified 'Aggregate Resource Area'. The subject property is currently 10.9 hectares, and would not currently be recognized as a farm-sized parcel to allow for an aggregate operation. Proposed development (land severance) would not hinder future aggregate extraction, as the size of the lands are already unfavorable to development of this nature.

Section 2.1.3(5) states:

New land uses, including the creation of lots, and new or expanding livestock facilities shall comply with the Minimum Distance Separation (MDS) formulae. MDS will not be applied to new non-farm development on existing lots of record. The County considers the continuation of the rural way-of-life to be of primary importance to protect existing livestock farmers who may wish to expand. The municipal comprehensive zoning by-law shall incorporate the Minimum Distance Separation formulae.

MDS calculations were submitted as part of the application. MDS setback can be met for the lot severance, and all required setbacks have been exceeded.

The requirements for official plan amendments are outlined in section 6.3 of the County Plan, while the detailed Agricultural policies are found in section 2.1 of the Plan. It is the primary objective of the Plan to protect the 'primary way of life' through farming operations continuing to

be the dominant land use. Therefore, Agricultural productivity of the land is a key consideration in assessing this application.

County staff have been reticent to consider lot addition severances on smaller farms, for fear of 'setting a precedent' which opens our Agricultural lands up to too many non-farm severances. County staff have carefully considered this application. Staff do not view this as precedent setting for the entire Agricultural designation, but rather see it as a somewhat unique circumstance where hazardous lands and a large forested area bisect the original lot (i.e. from the original crown survey).

Based on a review of County official plan policies, the application conforms to the intent and objectives of the official plan.

Legal and Legislated Requirements

There are no anticipated legal considerations associated with the proposed official plan amendment, beyond those normally encountered in processing an amendment. Should the application be appealed to the Local Planning Tribunal additional legal resources may be required. However, it should be noted that if County Council approves Amendment 141, and that decision is appealed, then the County would not be a party to the hearing, unless otherwise directed by Council to do so.

Financial and Resource Implications

There are no anticipated financial or staffing considerations associated with the proposed official plan amendment application, beyond those normally encountered in processing such applications. The County has collected the requisite application fees for this application.

Relevant Consultation

Internal: N/A

External: Township of Southgate, required agencies under the *Planning Act*, and the public

Appendices and Attachments

[Report PDR-CW-03-18](#)

[Proposed Official Plan Amendment #141 Text](#)

[Proposed Official Plan Amendment #141 Land Use Schedule](#)

Respectfully submitted by,

Stephanie Lacey-Avon, Intermediate Planner and

Scott Taylor, Senior Planner

Director Sign Off: *Randy Scherzer*