

To:	Warden Hicks and Members of Grey County Council
Committee Date:	January 10, 2019
Subject / Report No:	County Official Plan Amendment 42-05-280-OPA-144 / Addendum to Report PDR-CW-41-18
Title:	Wally Schaus Official Plan Amendment Merit Report
Prepared by:	Stephanie Lacey-Avon
Reviewed by:	Randy Scherzer
Lower Tier(s) Affected:	Municipality of West Grey
Status:	Recommendation adopted by the Committee of the Whole as presented as per Resolution <i>CW11-19</i> ; Endorsed by County Council on January 24, 2019 as per Resolution <i>CC12-19</i> .

Recommendation

1. That all written and oral submissions on Official Plan Amendment Number 144 were considered and helped to make an informed recommendation and decision; and
2. That Addendum to Report PDR-CW-41-18 be received, and that Amendment Number 144 to consider an amendment to the County of Grey Official Plan on lands designated 'Agricultural' and 'Hazard Lands', to permit a surplus farm dwelling severance within 500 metres of the Primary Settlement Area boundary of the Town of Hanover, for the lands described as Lot 5,6,7 Concession SDR (301138 Knappville Road), geographic Township of Bentinck, Municipality of West Grey, 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 (42-05-280-OPA-144) has been submitted by Ben Rier on behalf of the property owner Wally David Schaus, to amend the agricultural development criteria policies, to allow for a surplus farm dwelling severance within 500 metres of the Primary Settlement Area boundary of the Town of Hanover. The County Agricultural development policies in the County Official Plan do not permit this type of lot severance, but consideration for this type of application is identified at the Provincial level. This surplus farm dwelling severance application proposes to sever off the farm buildings that are

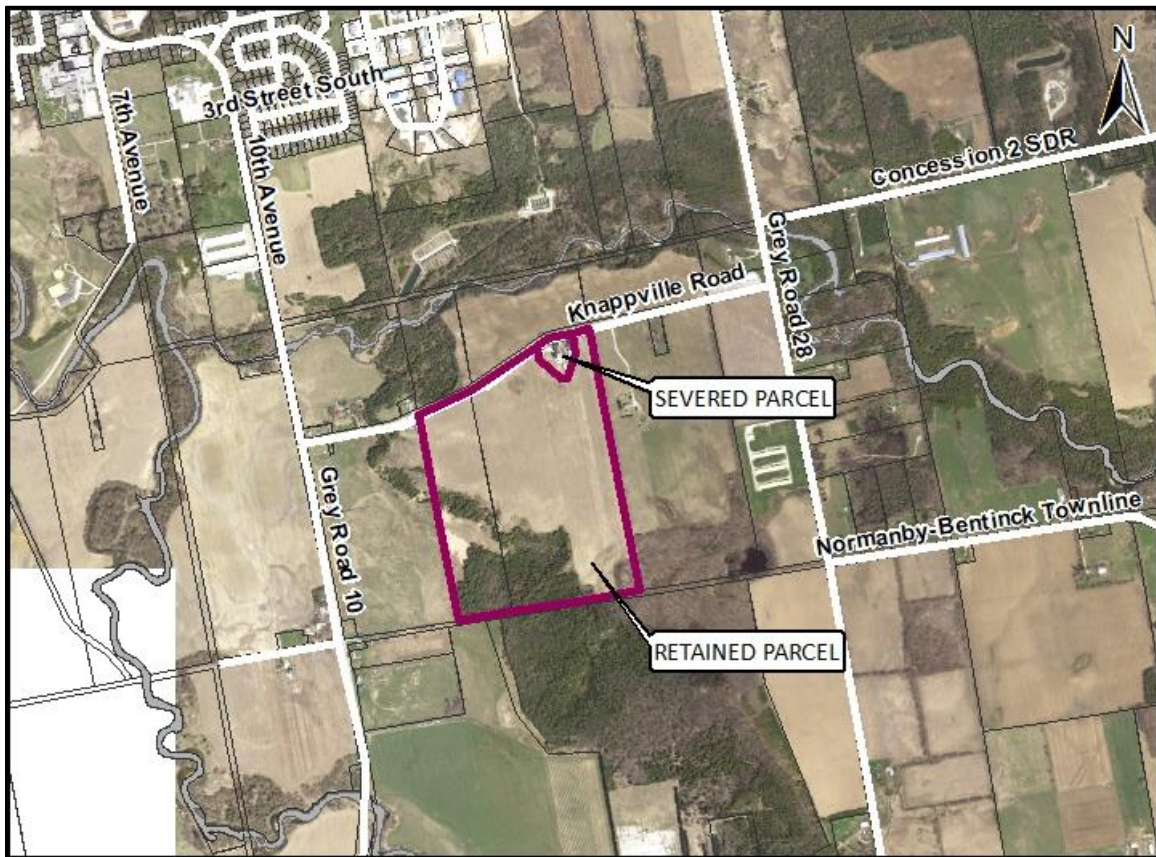
surplus to the needs of the owner. This amendment also requires a zoning by-law amendment and a consent application to the Municipality of West Grey.

Background and Discussion

The County has received an application from Ben Rier on behalf of the property owner Wally David Schaus to amend the Grey County Official Plan. The amendment would allow an exemption to the 'Agricultural' development policy 2.1.3(6) to permit a surplus farm dwelling severance within 500 metres of the Primary Settlement Area boundary of the Town of Hanover. This policy is intended to limit lot creation in proximity to settlement areas to reduce development of non-compatible uses, should the settlement areas expand.

The proposed development also requires a zoning by-law amendment and a consent application to the Municipality of West Grey.

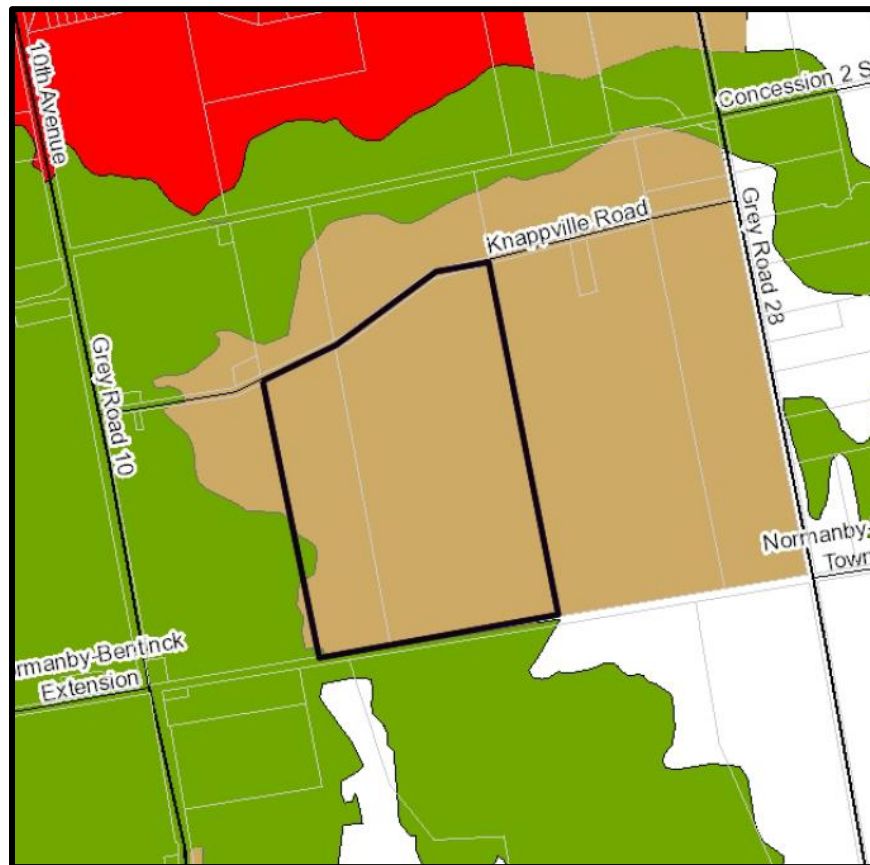
The subject lands are located at Lot 5, 6, 7 Concession SDR (301138 Knappville Road), geographic Township of Bentinck, Municipality of West Grey. Map 1 below shows the subject lands and surrounding area.



Map 1: Airphoto of the Subject Lands

The subject property is designated 'Agricultural' and 'Hazard Lands'. The lands are used for cash crop purposes by a bona fide farmer. The two-storey residence, a barn, and five storage sheds are deemed surplus to the current owner's needs, and are intended to be severed from

the remaining farm parcel. Under consent policies 2.1.4(1)(b) of the County of Grey Official Plan, the proposed development meets the criteria for a surplus farm dwelling severance.



Map 2: Land Use Designations (Agriculture and Hazard Lands)

The subject lands are approximately 46.8 hectares (115.7 acres) in size, and the proposed severed parcel will be approximately 1.2 hectares (2.9 acres) in size. The lands immediately surrounding the subject property are predominantly used for agricultural purposes.

The subject property has significant woodlands on the southern end, and a stream that flows westward, just north of Knappville Road. There are no natural ecological or natural heritage features situated within 120 metres of the proposed severed parcel.

Cuesta Planning Consultants Inc. submitted a Planning Justification Report in support of the proposal. The applicant did engage the Municipality and the County in pre-submission consultation. A copy of the Report and background materials can be found at the below link:

[Link to Background Materials](#)

A joint public meeting with the Municipality of West Grey was held on December 10, 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.

Bluewater District School Board, dated November 6, 2018

“The School Board has no concerns or comments at this time.”

Historic Saugeen Metis, dated November 12, 2018

“The Historic Saugeen Metis (HSM) Lands, Resources and Consultation Department has reviewed the relevant documents and have no objection or opposition to the proposed Grey County Official Plan Amendment 42-05-280-OPA-144, located in West Grey.”

Enbridge Gas, dated November 15, 2018

“Enbridge Gas Distribution does not object to the proposed application(s).”

Saugeen Valley Conservation Authority (SVCA), dated November 23, 2018

“All of the plan review functions listed in the Agreement have been assessed with respect to this proposal. The proposed County OP Amendment and proposed Zoning By-law Amendment are acceptable to SVCA staff.”

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 and Provincial plans in force and effect. In this case, the Niagara Escarpment Plan is not in effect for this property.

Provincial Legislation – The *Planning Act*

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,

The identified natural heritage features on the subject property will not be altered or impacted as a result of this application.

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

The subject property is designated 'Agricultural' and 'Hazard Lands' as per Schedule A of the County Official Plan. Within the 'Agricultural' designation, consents for new lot creation are generally discouraged except under a few circumstances. The County of Grey Official Plan and the PPS both contemplate surplus farm dwelling lot creation. The proposed severed parcel is limited in area, and is only sufficient in size to accommodate the farm residence and farm buildings on site. As little land as possible has been removed from the agricultural lands. The retained lands will be rezoned to prohibit the future erection of a residential dwelling of any type on the agricultural lands.

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 states that prime agricultural areas shall be protected for long-term use for agriculture. The zoning by-law amendment will have the effect of rezoning the retained lands to prohibit future residential development. As well, the proposed severed parcel is limited in area, and as little land as possible would be removed from the agricultural lands.

Section 2.3.3.2 of the PPS requires that in prime agricultural areas, all sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards. All of the lands that are currently being actively farmed will not be compromised by the proposed severance application.

Policy 2.3.3.3 also states, new land uses, including the creation of lots, and new or expanding livestock facilities shall comply with the minimum distance separation formulae. The surplus farm residence, the barn, and five storage sheds, on the subject lands will be located on the same lot following the severance application. It appears that as per MDS Implementation Guidelines #9 and #14, an MDS 1 setback is not required because the potential odour conflict already exists, and the proposed severed parcel with the existing dwelling, will also have the barn and five storage sheds.

Furthermore, policy 2.3.4.1 outlines that lot creation in prime agricultural areas is discouraged and may only be permitted under a few circumstances, including for a residence surplus to a farming operation as a result of farm consolidation. The subject application would meet the provincial criteria of a surplus farm dwelling severance, because the property owner is a bona fide farmer, the new lot will be limited in size, and new residential development is prohibited on the remnant parcel.

County of Grey Official Plan

Policy 2.1.3(2) of the County Official Plan outlines that the minimum lot size within the Agricultural designation for non-farm permitted uses shall be restricted to the minimum size required for the active aspects of the operation with as little acreage as possible taken out of productive agricultural land. The proposed severed parcel is intending to only include the surplus farm residence, the barn, and five storage sheds.

Policy 2.1.3(5) states that new land uses, including the creation of lots, and new or expanding livestock facilities shall comply with the Minimum Distance Separation (MDS) formulae. MDS 1 setbacks are not required to be met for this application; therefore, there are no concerns with said policy.

Section 2.1.3(6) of the County Official Plan states that within the Agricultural designation, new non-farm development within 500 metres of a Primary Settlement Area boundary or within 300 metres of a Secondary Settlement Area boundary shall be limited to existing lots, where minor infilling and rounding out of existing development may be considered. No new residential development is proposed as part of the subject application; therefore, there will be minimal impact on future development patterns in the area.

Section 2.1.4(1) speaks to the consent permissions in Agricultural lands.

A consent for one lot may be permitted provided the original farm parcel is a minimum of 40 hectares and no lot creation has been provided for in the past. The creation or acquisition of a lot by a public body (e.g. for a road deviation) will not be considered as a previous severance provided this does not result in an additional remnant lot.

The subject lands are approximately 46.8 ha in size. The subject application is for a surplus farm dwelling severance. As per policy 2.1.4(1)(b), conditions in the OP that are required to be met as part of a surplus farm dwelling severance include:

- i. *The owner of the lands to be severed is a 'bona fide farmer'.*
- ii. *The lot proposed for the residence and buildings surplus to the farming operation shall be limited in area and shall only be sufficient size to accommodate the residence surplus to the farming operation, accessory buildings, a well and a sewage disposal system, while ensuring that as little land as possible is removed from agricultural lands.*
- iii. *The remnant parcel shall be rezoned to prohibit the future erection of a residential dwelling of any type on the agricultural lands provided that a residential dwelling does not exist at the time of severance.*
- iv. *The severance of a residence surplus to a farming operation must comply with Provincial MDS Formulae. All livestock facilities within the vicinity of the proposed severance, including any livestock facility situated on the farm parcel from which the surplus farm residence is being severed, shall be used in determining Provincial MDS Formulae compliance;*
- v. *The existing residence is habitable at the time of application.*

The subject application satisfies the above noted conditions for a surplus farm dwelling severance. In particular, policy 2.1.4(1)(b)(iv) regarding MDS requirements are met as part of this application. Under the more recent MDS Provincial Guidelines (2016), guideline #9 states,

Where the existing dwelling to be severed and the nearby livestock facility or anaerobic digester are located on separate lots prior to the consent, an MDS 1 setback is not required for the consent application (or associated rezoning) unless otherwise required by a municipal official plan policy. This is because a potential odour conflict may already exist between those surrounding livestock facilities or anaerobic digesters and the existing dwelling.

An MDS 1 setback is always required for a proposed lot with an existing dwelling when prior to the consent, that dwelling is located on the same lot as an existing livestock facility or anaerobic digester and after the consent, the dwelling would be on a lot separate from that same existing livestock facility or anaerobic digester. This is because such a proposal could create a potential conflict as the dwelling and the livestock facility or anaerobic digester will be on separate conveyable lots if the severance is approved. This is the case regardless of how a municipality chooses to treat existing livestock facility on lots separate from the dwelling prior to the consent.

Where a new lot is proposed with an existing dwelling AND an existing livestock facility or anaerobic digester on it, an MDS 1 setback is not required for that livestock facility or anaerobic digester in accordance with Implementation Guideline #14.

Implementation guideline #14 states,

An MDS 1 setback is NOT required to be met for proposed development, dwelling, agriculture-related use, or on-farm diversified use from an existing livestock facility or anaerobic digester located on the same lot as the proposal.

The barn on the severed parcel was historically used to house livestock but is presently being used for dry storage. Prior to the new MDS Provincial Guidelines (2016), County planning staff used to apply MDS 1 to livestock facilities on the same lot as the subject dwelling proposed to be severed, as well as all livestock facilities within the vicinity of the proposed severance. Changes to MDS now remove the requirement for MDS 1 to be met for surplus farm dwelling severances, if the residence and livestock facility or anaerobic digester are already built and are located on the same lot following the proposed surplus dwelling severance. As well, MDS 1 is not required for livestock barns already on separate lots from the subject dwelling proposed to be severed. Changes were made to this Implementation Guideline to recognize that the potential odour conflict already exists. County planning staff have no concerns.

The West Grey Zoning By-law Number 37-2006 would not permit the barn on the severed parcel to be used for livestock purposes. Under Section 8.4 of the by-law, livestock facilities are not permitted on lots of less than 2 hectares in size.

Section 6.3 of the County Plan contemplates amendments to the Plan, provided the criteria of the relevant sections of the Plan can be addressed. 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. Agricultural productivity of the land is a key consideration in assessing this application and future development patterns. Staff would note that the severed parcel is limited in area, the tillable lands on the retained parcel will remain intact, and no future residential development on the retained lands will be permitted.

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

The application will be processed in accordance with the *Planning Act*.

Financial and Resource Implications

There are no anticipated financial, staffing or legal considerations associated with the proposed official plan amendment, beyond those normally encountered in processing an amendment. The County has collected the requisite application fee and peer review deposit for this application.

Relevant Consultation

- Internal: Planning Staff
- External: Municipality of West Grey, required agencies under the *Planning Act*, and the public

Appendices and Attachments

[Report PDR-CW-41-18](#)

[Proposed Official Plan Amendment #144 Text](#)

[Official Plan Amendment #144 Land Use Schedule](#)