



Staff report

Meeting date:	September 6, 2022
Title:	ZA14.2022 – ANDERSON, Douglas (clarification report)
Prepared by:	Lorelie Spencer, Manager of Planning and Development
Reviewed by:	Laura Johnston, CAO

Recommendation

That council receive Planner Spencer's report and considers 1st, 2nd, and 3rd reading of the bylaw at a subsequent council meeting and that a non-service agreement be registered on title at the landowner's expense.

Executive summary

This file previously appeared before Council on August 8th, 2022 as part of a Public Meeting process. At that time, council directed the file to be deferred until additional information and clarification was provided by the Saugeen Valley Conservation Authority (SVCA). Staff have now had the opportunity to receive those comments which are attached. The SVCA has visited the site and is requesting the implementation of a holding provision to define an appropriate building envelope and mitigation measures.

The subject lands do not have an identified municipal address. The property is legally identified as SURVEY EDGES; PT BLK C, town of Durham. The property is designated as a 'primary settlement area' within the County of Grey Official Plan. The property is designated as 'residential' with a flood fringe and regulated area overlay under the Municipality of West Grey Official Plan.

The subject lands currently do not have frontage on an open and maintained municipal road. Arthur Street does not extend to the subject lands. The purpose of the application is to change the zone symbol on the subject lands from R1B (residential) to R1B-464-h (residential with exception and a holding provision). Exception 464 will permit development on a lot without open and maintained frontage. The effect of which will permit development on a portion of the lands and require the registration of a non-service agreement on title acknowledging that snow clearance, and access to the property is the sole responsibility of the property owner, including for the purposes of fire and emergency access. The holding provision will ensure that an appropriate environmental impact study is completed to the satisfaction of the County, Municipality and SVCA prior to the removal of the holding provision.

Access to the site is required to conduct the necessary EIS, permitting the applicant to proceed with the non-service agreement through the site plan process will provide assurance to the applicant and provide the ability for the study to be conducted. Development will not be



permitted until the holding provision is removed.

The subject lands are located south of Durham Road East and south of the open and maintained portion of Arthur Street. The proposed access to the subject lands is on the unopened portion of Arthur Street. A previous request was provided to council to contemplate the sale of the unopened road allowance however, due to the presence of existing infrastructure, staff recommended permission to install an entrance and permit use through the registration of a non-service agreement (NSA). In order to meet the requirements of the zoning by-law, a zoning amendment is required. If approved, this will provide the ability for a building permit to be issued for development on the subject lands in accordance with applicable law once the holding provision is removed.

Background and discussion

The merits of this application have been assessed against the policies of the 2020 Provincial Policy Statement (PPS), the County of Grey Official Plan, and the municipality's zoning by-law 37-2006.

1.0 2020 Provincial Policy Statement

The 2020 PPS requires that all planning considerations are consistent with the policies of the PPS.

Policy 1.1.3 states that settlement areas shall be the focus of growth and development. Policy 1.1.3.2 states that land use patterns within settlement areas shall be based on densities and a mix of land uses which efficiently use land and resources. The subject lands, while containing a flood fringe and regulated area, are located within an established residential neighbourhood. Planning staff are satisfied that sufficient area outside of the natural features and functions require minimal disturbance to accommodate development. If approved, the applicant is strongly encouraged to consult with the Saugeen Valley Conservation Authority (SVCA) prior to conducting the environmental impact study and pursuing a building permit.

Policy 1.6.1 states that infrastructure and public service facilities shall be provided in an efficient manner that prepares for the impacts of a changing climate while accommodating projected needs. The subject lands will have access to partial municipal services which is consistent with 1.6.1. Policy 1.6.6.2 further supports the use of municipal sewage services and municipal water services.

Policy 3.1 of the PPS states that development shall be directed to areas outside of hazardous lands adjacent to rivers and streams which are impacted by flooding hazards and to direct development outside of hazardous sites. Staff are satisfied that sufficient area exists on the subject lands outside of hazardous / flood lands.



September 6, 2022 (3)

Planning staff are satisfied that the application is consistent with the 2020 PPS.

2.0 County of Grey Official Plan (Recolour Grey)

The subject lands are designated as 'primary settlement area' within schedule 'A' of the County Plan.

The site is currently vacant and contains mature vegetation. Planning staff note that the applicant should be advised to consult the County of Grey Forest Management By-law No. 4341-06 to determine if a permit is required prior to the commencement of any tree removal.

The policies of the county plan mirror the PPS requiring review of any development within proximity to rivers and streams and associated hazard features. Consultation with the Saugeen Valley Conservation Authority will be required for any works on the subject lands as a development permit may be required prior to building permit issuance.

Policy 3.3 of the County Plan speaks to settlement area land use types. Primary settlement areas are larger settlements with full municipal servicing, and a wide range of uses, services and amenities which are intended to be the primary target for residential and non-residential growth. Providing access to this parcel for residential development is considered to maintain the general intent and purpose of the County plan.

Planning staff have no further concerns in this regard.

3.0 The Municipality of West Grey Official Plan

The subject lands are designated 'residential' under policy D2 within the West Grey Official Plan. Policy D2.2 provides the objectives of the 'residential' designation. The objectives are to ensure that an appropriate range of housing types and densities are provided within Durham and Neustadt. The objectives also require the provision of housing which is affordable to low and moderate income households by permitting and encouraging all forms of housing required to meet the social, health and well-being requirements of current and future residents. The objectives further require the encouragement of residential development which efficiently utilizes the land, resources, infrastructure and public service facilities.

Permitted uses within the residential designation are dwelling units. The types of dwelling unit permitted include low density housing such as detached dwellings, semi-detached dwellings and duplexes, medium density housing such as triplexes, quadraplexes and townhouses and high density housing such as apartments.

General policies also provide a wide range of housing types and densities shall be permitted within the residential designation. Policy D2.4.2 further requires that new residential development be serviced with municipal water and sanitary sewer. Policy D2.4.3 further supports new residential development by way of intensification, infilling and expansion.



September 6, 2022 (4)

Planning staff consider the development of this vacant parcel as a form of infilling, appropriate for the area and consistent with the existing development fabric in the area with access to full municipal services.

Section E1 of the Municipal plan speaks to the environmental policies, specifically E1.1.2 states that lands within the 'flood fringe' overlay area are not designated environmental protection, but are situated adjacent to environmental protection lands and are directly associated with the goals and objectives of the environmental protection designation. Policies related to the identified 'flood fringe' and 'regulated area' overlays are contained within D9.4 of the Municipal plan. D9.4.2 (b) states that the 'flood fringe' zone is the portion of the flood plain adjacent to the floodway where the risk of flood-related damages is lesser than the risk associated with the floodway. Certain land uses are not permitted in the identified overlay area due to the greater risk to life of property damage or the nature of the land use being inappropriate for a floodplain location. As previously noted, sufficient area outside of this identified overlay exists on the subject lands to support development of a single detached dwelling unit with some limitations. Consultation is required to occur with the SVCA as a permit may be required for any development under applicable law and limitations may be specified to lessen any potential impacts through the EIS.

4.0 The Municipality of West Grey Comprehensive Zoning By-law No. 37-2006

The subject lands are zoned R1B (residential) under the Municipality of West Grey Comprehensive Zoning By-law 37-2006.

Provision 6.10 of the Municipality of West Grey Comprehensive Zoning By-law 37-2006 states as follows:

Frontage on a Public Street:

No person shall erect any building or structure, or use any lot in a zone, unless the lot upon which such building or structure is to be erected, fronts upon and has direct access to an improved public street open and maintained on a year round basis. The above provision shall not apply to restrict the erection of any building on a lot on a registered plan of subdivision where a subdivision agreement has been entered into but the street will not be assumed until the end of the maintenance period.

The subject lands do not contain open and maintained frontage on Arthur Street which has resulted in this application. As discussed, an EIS is required to further support the development of the lands in addition to the NSA. The subject lands are currently vacant. Site Plan control will be implemented through the zoning by-law which permits the NSA execution and will ensure that the mitigation measures of the EIS, once completed, are implemented.



September 6, 2022 (5)

As previously noted, the non-service agreement would provide notice to the current and future landowners that the subject lands do not have standard road frontage on an open and maintained road. As a result, the liability and responsibility for access to the road is on the landowner(s) to ensure adequate access is provided for fire / emergency services. Snow clearance is also the sole responsibility of the landowner(s) and refuse collection will be provided in the location of the open road and not the perceived laneway from the open portion of Arthur Street.

Planning staff previously recommended to council that the sale of the lands to the landowner would involve the relocation of services. To accommodate the development of the subject lands, a non-service agreement is considered appropriate. The extension of Arthur Street is not anticipated to occur in the future. The further implementation of the holding provision will also ensure that a suitable developable area is defined for the subject lands and assist to include any necessary mitigation measures.

Planning staff are satisfied that the application accurately maintains the general intent and purpose of the zoning by-law while removing potential liability from the municipality by permitting development in this regard.

Legal and legislated requirements

None.

Financial and resource implications

None.

Staffing implications

None.

Consultation

- County of Grey Planning and Development Department
- Saugeen Valley Conservation Authority

Further comments are not anticipated.



September 6, 2022 (6)

Alignment to strategic vision plan

Pillar: Build a better future
Goal: Review the County Official Plan and Municipal Zoning By-law
Strategy: Take a co-operative approach to development

Attachments

- Aerial mapping and Official Plan mapping
- Aerial mapping and Zoning map
- Commissioned application form
- Draft zoning by-law (revised)
- Draft zoning schedule (revised)

Next steps

Following this meeting, at a subsequent meeting of council provided that the bylaw receive 1st, 2nd, and 3rd reading a notice of decision will be issued. Following the appeal period and provided no appeals have been received, planning staff will notify the applicant and present a by-law to council to permit the mayor and the clerk to enter into the non-service agreement with the landowner.

Respectfully submitted:



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Manager of Planning and Development