



Committee of adjustment report

Meeting date:	September 19, 2022
Title:	B09.2022 and B10.2022 – ELO, Ronald John (Loft Planning Inc.)
Prepared by:	Lorelie Spencer, Manager of Planning and Development
Reviewed by:	Laura Johnston, CAO

Recommendation

That Committee receive Planner Spencer's report and approve applications B09.2022 and B10.2022 (ELO) subject to the following conditions:

- Payment of any outstanding municipal taxes;
- Payment of the zoning by-law amendment application fee;
- Payment and receipt of an entrance permit to the newly created parcels;
- Approval of a zoning by-law amendment;
- Payment of the site plan application fee;
- Approval and execution of the site plan agreement and registration on title at the expense of the owner for both of the newly created parcels; and
- Payment of a Parkland Dedication Fee for each newly created lot.

Executive summary

The property is municipally identified 234330 Concession 2 WGR and legally identified as LOTS 30-32 CON 2-3 WGR in the geographic township of Bentinck

The purpose and effect of each application is as follows:

B09.2022:

The purpose of the application is to sever approximately 0.8 hectares of vacant rural land and retain approximately 54.2 hectares of vacant rural land. The effect of which will create a new non-farm rural parcel.

B10.2022:

The purpose of the application is to sever approximately 0.8 hectares of vacant rural land and retain approximately 53.6 hectares of vacant rural land. The effect of which will create a new non-farm rural parcel.

A fulsome pre-consultation on the application has been ongoing with the applicant and their agent and resulted in the submission of an Environmental Impact Study (EIS) in support of the proposed lot creation for the subject lands. The EIS was pre-circulated to the county and conservation and comments regarding the file have been provided in advance for clarity.



The EIS has also been reviewed internally by Planning Staff. The EIS was undertaken to address the presence of significant woodlands, a tributary of the Saugeen River and components of the McLean Lake provincially significant wetland (PSW). The majority of the property is regulated by the SVCA due to potential flooding and erosion hazards related to the tributary, wetlands and nearby lake. The EIS provided a number of recommendations which are specific to the type and location of development that may occur on the proposed lot creation.

Planning staff intend to address these in greater detail within the report and recommend their implementation through a zoning by-law amendment and site plan control. The site plan agreement should be registered on title to the newly created parcels at the sole expense of the applicant. This will serve as notice to any future landowners to the significant features on, and adjacent, to the newly created parcels.

Planning staff are generally satisfied that the applications are consistent with the PPS, County Official Plan and the Municipality's comprehensive zoning by-law subject to the conditions recommended as part of this report. The findings and recommendations rely on planning principles and the recommendations of the EIS.

Background and discussion

The site is comprised of approximately 55.7 hectares. The property has been altered from the original crown survey and is t-shaped with the middle portion of the property encompassing McLean Lake. The property is bounded by Concession 2 WGR on the east and Baseline Road to the west. The two (2) lots proposed would have frontage on Baseline Road. The EIS is focused on the area of lot creation. The balance of the land is not actively farmed but does contain significant woodlands which is considered a farming operation. Livestock are not present on the subject lands however the surrounding land uses are predominantly agricultural in the form of cash cropping.

The subject lands are designated within schedule 'A' of the County of Grey Official Plan as 'rural', 'hazard lands' and 'provincially significant wetland'. Appendix 'B' of the County Plan designates the majority of the property as containing significant woodlands.

To determine the consistency of the proposal planning staff have conducted a review of the Provincial Policy Statement (PPS), County Official Plan and the Municipality's Comprehensive Zoning By-law 37-2006.

1.0 Provincial Policy Statement 2020 (PPS)

The Provincial Policy Statement 2020 (PPS) requires that municipalities are consistent with the policies of the Province in making decisions on land use planning matters.

Section 1.1.5 within the PPS provides guidelines as they relate to the development of rural lands within the municipality.

Section 1.1.5.8 specifically requires that new land uses, including the creation of new lots comply



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with minimum distance separation (MDS). Planning staff have reviewed aerial photography in combination with information provided by the applicant and are satisfied that an MDS calculation in this case is not warranted as no existing or potential livestock facilities exist within 500 metres of the subject lands. Planning staff are satisfied that there are no issues related to the proposed severances and minimum distance separation. As the area is located within a predominantly agricultural / rural area planning staff will be recommending a condition of provisional consent that a clause is provided to acknowledge that odors, noise and smell are anticipated in the area as a result of normal farm practices.

The subject lands are considered a rural area within the municipality and the creation of limited non-farm residential lots is permitted subject to various factors. Hazard lands and identified provincially significant wetlands are located in a swath through the centre and western portion of the subject lands. The proposed consents are located entirely within the rural designation of the property. An irregular easterly boundary is proposed for the non-farm lots to ensure that the PSW boundary is completely contained on the retained parcel.

A site visit was conducted by the SVCA and comments have been provided in relation to the subsequently submitted EIS supporting the application.

Review of the EIS was also conducted by the County who expressed no further concerns with the application provided the appropriate planning mechanisms were implemented to ensure the conditions of the EIS were maintained. As previously stated, planning staff will be recommending the use of site plan control to ensure that an agreement is registered on title to the newly created lots which will ensure the recommendations of the EIS are implemented when the lots are developed by either the current or future landowners.

Section 2.1.4 of the 2020 PPS does not permit development and site alteration within significant wetlands, in addition section 2.1.8 of the PPS does not permit the development or site alteration within the adjacent lands to significant wetlands unless the ecological function of the adjacent lands has been evaluated and it is demonstrated that there are no negative impacts on the natural features and ecological functions. The EIS clearly delineates the developable area of the non-farm lots which will remain outside of the identified PSW and associated hazard lands. Policies related to the official plan are further carried forward in the policies of the County official plan as identified in section 2 of this report.

Hazard lands are identified under the Official Plan on the subject lands in various locations. The hazard designation contains woodlands, wetlands and ponds. Section 3.1.1 of the PPS echoes the policies of the County Official Plan discussed in section 2. Development and site alteration shall be directed outside of identified hazard areas. As previously noted, there is no development or site alteration proposed within the hazard lands or the associated PSW on the subject property. Planning staff are satisfied that the provided EIS is acceptable in addressing these requirements. Further development outside of the focused study area of the EIS does warrant the use of the holding provision to ensure future development is considered appropriately with respect to the natural heritage features and functions on the retained parcel.

Planning staff are generally satisfied that the proposed lot creation at this time is consistent with the policies of the PPS.



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2.0 County of Grey Official Plan

The subject lands are designated as rural, hazard and provincially significant wetlands under the county plan.

The appendices to the County Plan identify a number of natural heritage features including partially provincially significant wetlands and significant coastal lands as well as significant woodlands. Policy 7 of the official plan is consistent with the protection of these natural heritage features. Policy 7.11.1 speaks to the implementation and protection of features through the use of review in the form of an EIS. At minimum, the EIS shall demonstrate that the proposed development or site alteration will have no negative impacts on the values or functions.

Policy 5.4.3(1) of the County of Grey Official Plan, specifically determines the density policies to permit lot creation based on the original crown survey. Based on the original crown survey of the subject lands and the consideration of its previous alterations, planning staff are satisfied that the proposed lot creations can be supported under the density policies.

Policy 7.2 of the Official Plan does not permit development or site alteration in the hazard lands designation unless the use is associated with conservation of natural resources, agriculture, passive public parks or public utilities.

As previously noted, planning staff recommend the use of site plan control on the subject lands through the zoning by-law amendment. This will ensure that future development is considered accordingly and the ability to determine through the provision of a site plan to demonstrate that no negative impacts will occur as a result of development and the mitigation measures through the EIS are implemented.

Planning staff are satisfied that the general intent and purpose of the Official Plan are being maintained by this application.

3.0 The Municipality of West Grey Comprehensive Zoning By-law 37-2006

The municipality of west grey comprehensive zoning by-law zones the subject lands A2 (rural), NE (natural environment) and NE2 (natural environment 2). Planning staff have conducted a zoning review. A zoning by-law amendment will be required to zone the newly created parcels in accordance with provision 9.3 to recognize the reduced lot regulations of the newly created lots and the retained parcel.

Provision 9.3 states that a lot created by consent that has a lesser lot area or frontage than required, shall obtain a zoning by-law amendment. This applies to the newly created parcel. Based on the recommendations of the EIS the implementation of further measures on the retained parcel will be evaluated through Council and the zoning by-law amendment process.

The recommendations of the EIS will be implemented through a combination of the zoning amendment and site plan control.

As a result of pre-consultation for the files, it was determined through county and conservation input that a second detached dwelling unit shall not be permitted on the newly created parcels without further natural heritage consideration. The submitted EIS did not address the potential impacts. This was discussed and communicated with the applicant and their agent prior to circulation of the notices for the file.



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Provided the recommendations are included as recommended with the tools of zoning and site plan control, planning staff are satisfied that the application maintains the intent and purpose of the municipality's zoning by-law.

Legal and legislated requirements

None.

Financial and resource implications

None.

Staffing implications

None.

Consultation

- County of Grey Planning & Development Department
- Saugeen Valley Conservation Authority
- Birks Natural Heritage Consultants

Alignment to strategic vision plan

Pillar: Build a better future
Goal: Review municipal official plan policies
Strategy: Take a co-operative approach to development

Attachments

- Aerial and official plan mapping
- Aerial and zoning mapping
- Commissioned application forms
- County of Grey Planning & Development Department comments
- Saugeen Valley Conservation Authority comments

Next steps

Following provisional approval of the applications, staff will notify of the decision and the required appeal period will commence. Provided no appeals are received the applicant will be notified and have twelve (12) months from the date of decision to satisfy all conditions, provide draft deeds and a survey for approval by the municipality, and have the same registered by their lawyer at the land registry office.



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Respectfully submitted,



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