



Municipality of Brockton Planning Report

Application: Zoning By-law Amendment
File Number: Z-16-19.34
Date: July 9, 2019

To: Mayor and Council Members, Municipality of Brockton

From: Mark Paoli, Senior Planner for the Municipality of Brockton

Subject: Application by D Eidt to sever a residence surplus to a farming operation and rezone the lands to facilitate the new lot

Recommendation:

That the Municipality of Brockton Council **Approve** the proposed Zoning By-law Amendment submitted by Eidt File: Z-16-19.34 and pass the site-specific By-law attached.

Reasons for and Nature of the Application:

The purpose of the Zoning By-Law Amendment is to address zoning requirements to implement a proposed 'surplus farm dwelling' severance.

Location and Site Description:

The site is located at 51 Sideroad 15 (Brant) on the east side of the road, in the general area south of Bruce Road 4, east of Walkerton. The farmstead consists of a dwelling, barn and shed. North of the farmstead is a row of rural lots and dwellings that extends to Bruce Road 4. There are Commercial and Residential uses to the North; Industrial and Residential uses to the South; Agricultural uses to the East; and Residential and Agricultural uses to the West.



Proposal:

Consent application (File B-14-19.34):

- The area of the property is 12.52 ha (31 acres).
- The retained lot (the farm lands) to be 11.89 ha (29 acres) with +/- 122 m (400 ft) of frontage.
- The severed lot with the existing house, shop and barn to be 0.74 ha (1.8 acre) with +/- 291m (955 ft) of frontage.
- The consent application will include a condition that the septic system for the house be located wholly on the severed lot.
- The applicant's severance sketch is attached in Appendix 2.

Zoning Amendment application:

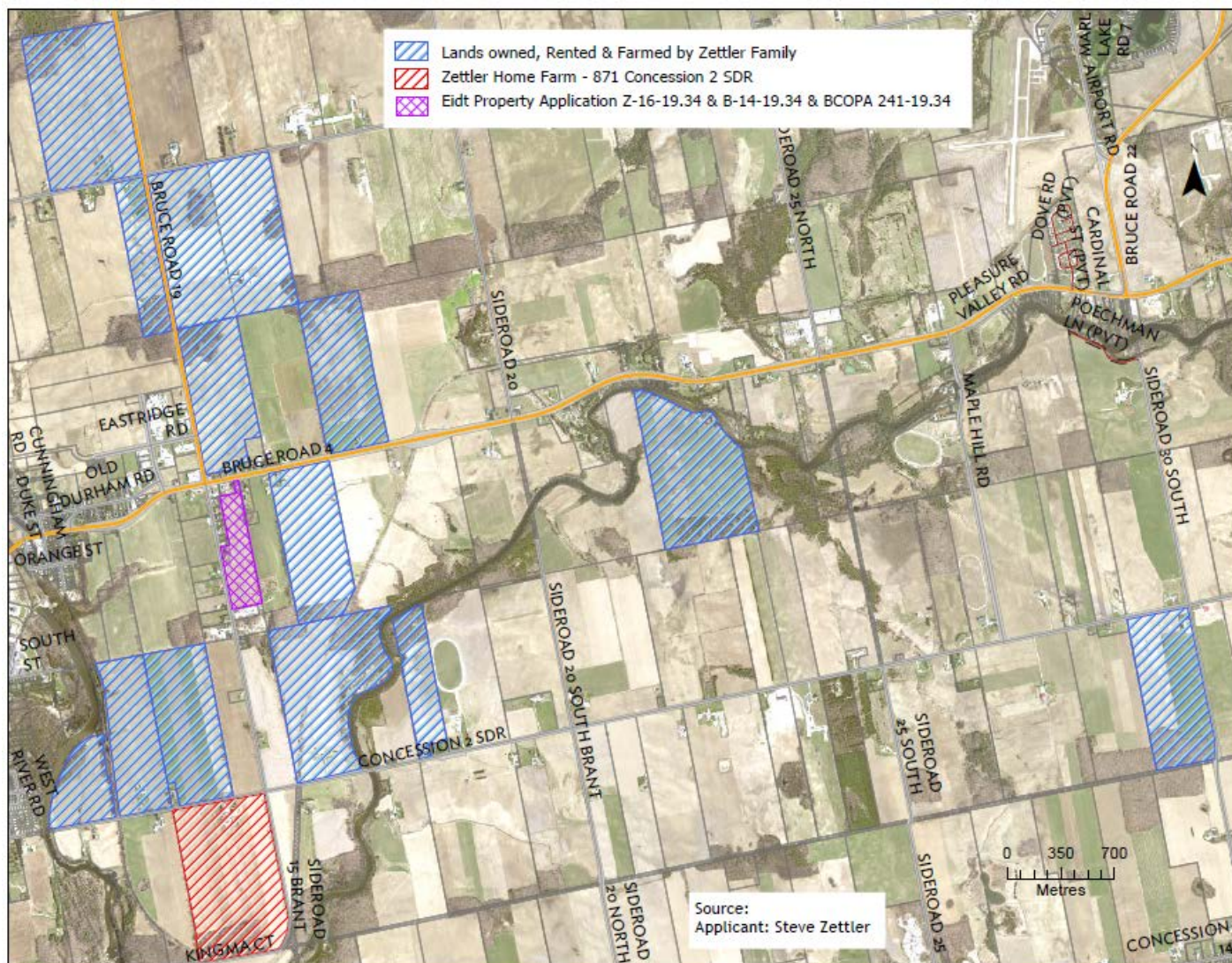
- The severed lands, on which the dwelling and farmstead is located, would be rezoned from General Agriculture A1 to General Agriculture Special (A1-101). This zone will recognize any deficient setbacks resulting from the severance and restrict livestock.
- The retained farm lands will be zoned from 'A1- General Agriculture' to 'General Agriculture Special 102'. A dwelling is not permitted on the retained farm lands under the Special Provisions and the reduced size would be recognized.
- There is no new development proposed as part of this application.
- The By-Law to be adopted is attached in Appendix 7.

Official Plan Amendment (OPA 241)

- Site-specific policy that a surplus farm dwelling severance is allowed, notwithstanding that more than two lots have been severed from the original Crown parcel, and that the retained lot is undersized
- Recommended for Approval by County Planning Committee on June 20th, 2019.

The applicant's submission included a map of their farm operation and justification (see Appendix 5) of the need to consolidate the retained land, without the residence and accessory buildings, into their farm business.

A map of the subject lands within their area of operation is below.



The applicant also provided an explanation (see Appendix 5) as to why they are interested in owning the retained lands. Their main points are:

- They have been renting the lands for about twenty years and have invested money and effort into improving the land;
- With the exception of an access road along the south edge, the whole acreage is useable for cash cropping;
- The land is very close to the home farm;
- Even though it is a smaller acreage, the fact that it is so close and convenient it is a nice asset to their existing farming operations; and,
- They have no interest in owning the house or other buildings.

Agency Circulation:

Municipality of Brockton - Civic address number to stay with severed property.

SVCA - The County Official Plan Amendment is acceptable to SVCA staff.

Bruce Grey Catholic District School Board - no comments.

Historic Saugeen Metis - no objection or opposition.

Hydro One - no comments or concerns.

Public Comments:

At the time of writing this report, three letters from the public were submitted in opposition to the proposal (attached in Appendix 6).

Provincial Interests, Policy Statements or Plans

The subject lands are in a Prime Agricultural Area. Prime Agricultural Areas are to be protected for long term use for agriculture.

In the PPS, lot creation in 'prime agricultural areas' is discouraged and only permitted for agricultural uses, infrastructure, agriculture-related uses and a residence surplus to a farming operation. A severance for a residence that is surplus to a farm operation is permitted provided that:

- It is the result of farm consolidation;
- The new lot is limited in size; and
- Residential dwellings are prohibited on the remnant parcel.

The PPS does not set out a minimum size for the remnant parcel.

Bruce County Official Plan

The subject lands are designated Agricultural Area in the Bruce County Official Plan. The policies for the Agricultural Area include: an original Crown surveyed lot shall not be divided into more than two parcels, including the retained lot; and the minimum lot area of lands shall be generally 40 hectares (99 acres).

The consent policies permit a severance for the creation of a lot for an existing residence and buildings surplus to a farming operation as a result of a farm consolidation. To meet these policies, the owner of the farm lands must be a 'bona fide farmer'. For the purposes of this policy, the 'bona fide farmer' must:

- a) Own and farm the lands on which the surplus dwelling is proposed to be severed;
- b) Own and farm other lands; and,
- c) own a residence elsewhere, or reside as a tenant elsewhere, therefore rendering the residence on the subject farm surplus to their needs.

A 'bona fide farmer' is defined as including a limited company, sole proprietorship, incorporated company, numbered company, partnership, non-profit and other similar ownership forms. The Official Plan also requires that the lot proposed for the residence and buildings surplus to the farming operation is to be limited in area and shall only be of sufficient size to accommodate the residence surplus to the farming operation, accessory buildings (where including accessory buildings does not render the lot excessively large in the opinion of the Land Division Committee), a well and a sewage disposal system, while ensuring that as little land as possible is removed from the agricultural lands.

Brockton Zoning By-law

The subject lands are currently zoned 'General Agriculture (A1)'. The retained lot is proposed to be zoned with a special provision that would not permit a house. The severed lot is proposed to be zoned with a special provision that would: limit the number of nutrient units on the severed parcel to 1.25 units per ha; and recognize any buildings that do not meet zoning setbacks of the A1 Zone.

Planning Analysis:

The applicant (Zettler) meets the definition of a bona fide farmer, has an agreement to purchase the lands, owns and farms other lands in the area, and does not live on the subject lands. The lot to be severed is an appropriate size and has logical lot boundaries with no land taken out of active agricultural production. The lot to be retained will be rezoned to prohibit a house. Therefore, the application meets the PPS and County Official Plan policy tests specifically related to surplus farm dwelling severances.

In terms of the broader County Official Plan policy about the number of lots from an original Crown surveyed lot, this would be the 17th lot. While the main intent of this policy is to prevent fragmentation of the land resource, we recognize that this area was allowed to be extensively fragmented some time ago. In our view, this application, which will not result in new development, would not introduce any new impacts into this area.

In considering the broader policy on farm size, we note that the 29 acre retained lot would be smaller than the 100 acre minimum size policy. While the intent of this policy is to promote and maintain viable farming operations and minimize impacts on the farm community, we recognize that this area was allowed to be broken up into smaller farms and residential lots some time ago - the subject lands are already smaller than the minimum farm size policy as a result of these past decisions. Despite its size, it is noteworthy that the retained parcel is ideally located for efficient farm machinery movement and is valued within the Zettler operation. Moreover, this application would bring the retained parcel into the ownership of a larger and viable farm operation and would not create negative impacts on the farm community.

Conclusion:

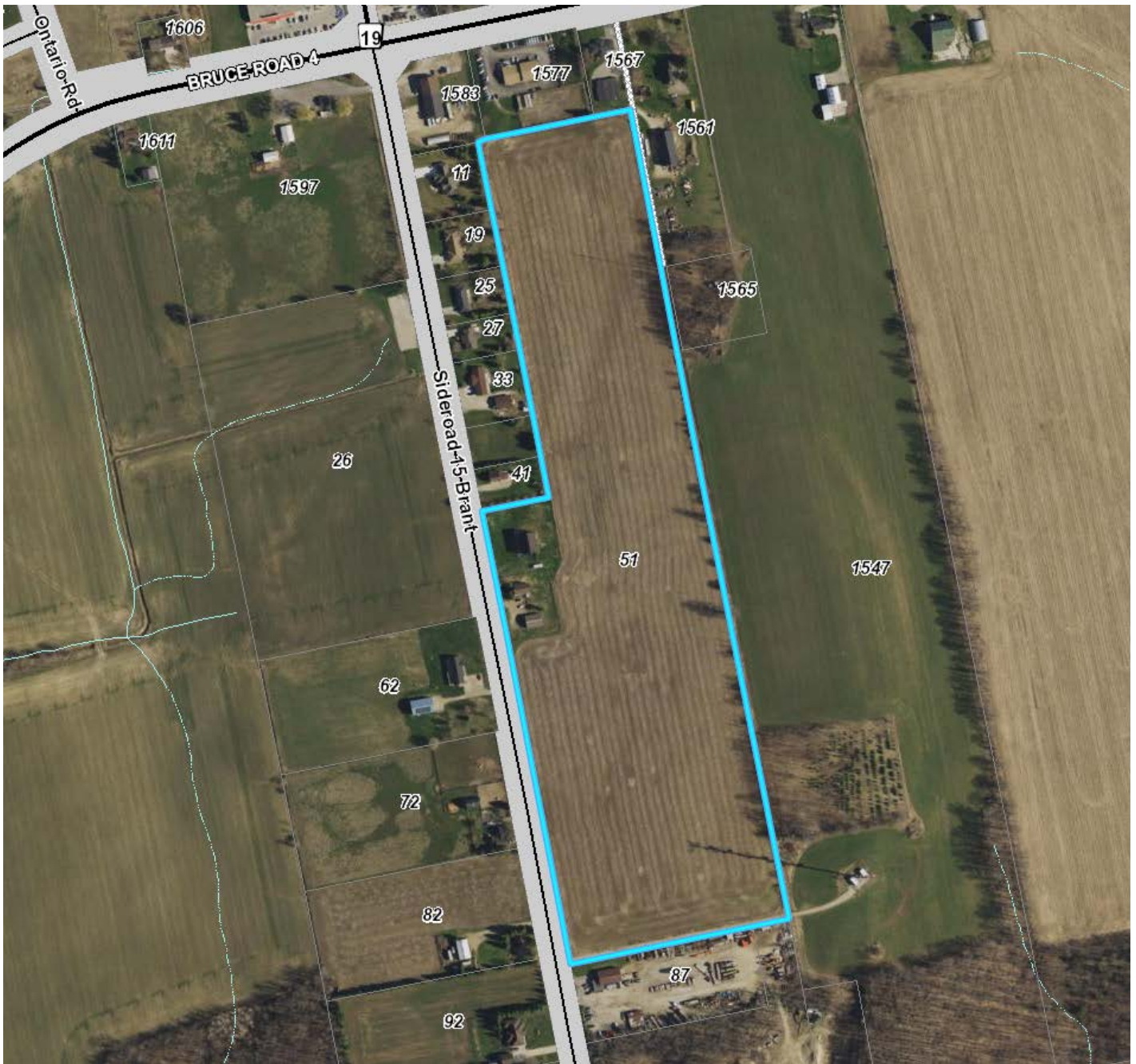
Based on the foregoing points and taking into account the broader purpose of the County Official Plan, which is to strengthen the agricultural community, this application is consistent with the Provincial Policy Statement, would conform with the Bruce County Official Plan and would be good land use planning.

Respectfully submitted,

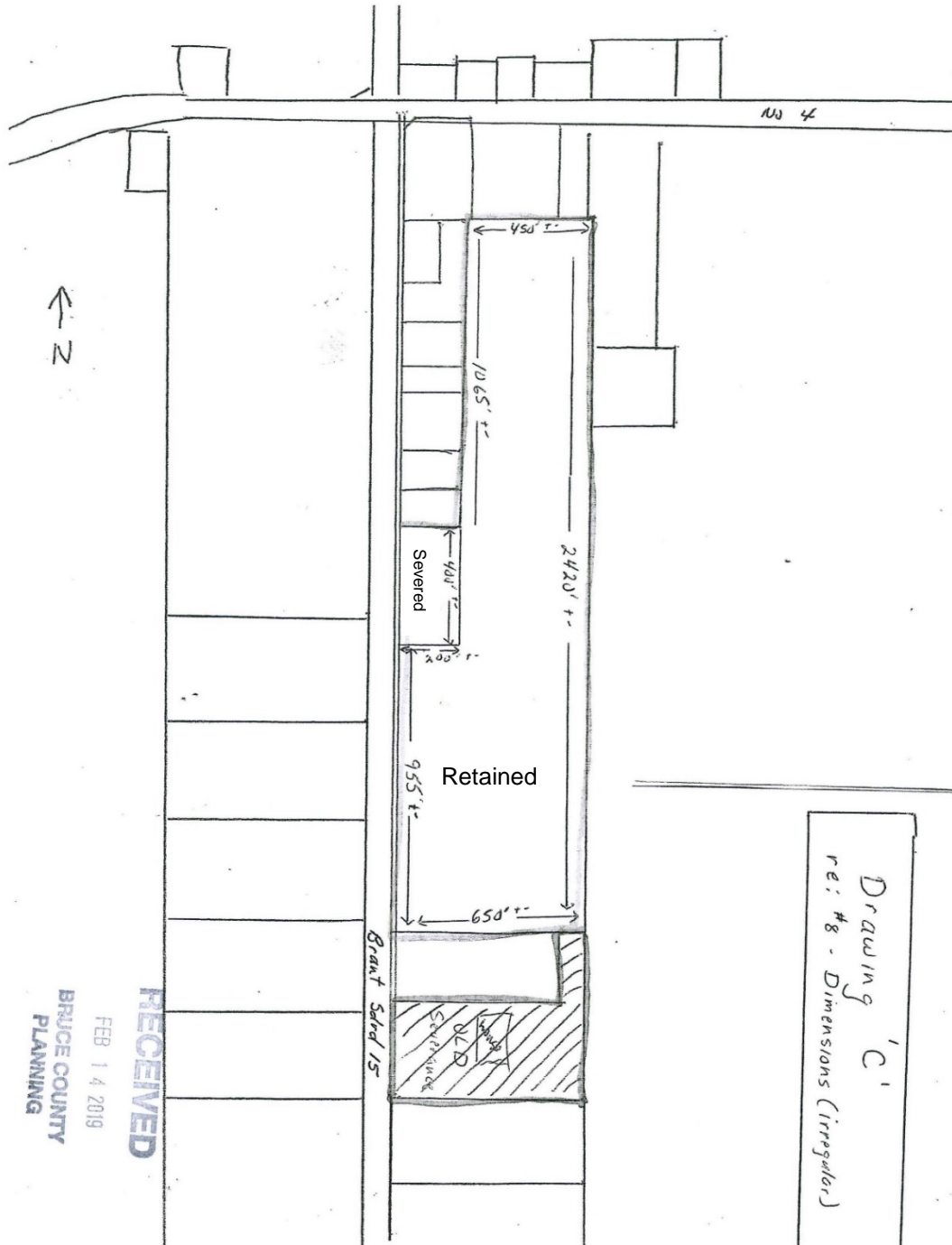


Mark Paoli, M.Sc., RPP
Senior Planner - Municipality of Brockton
County of Bruce, Planning & Economic Development

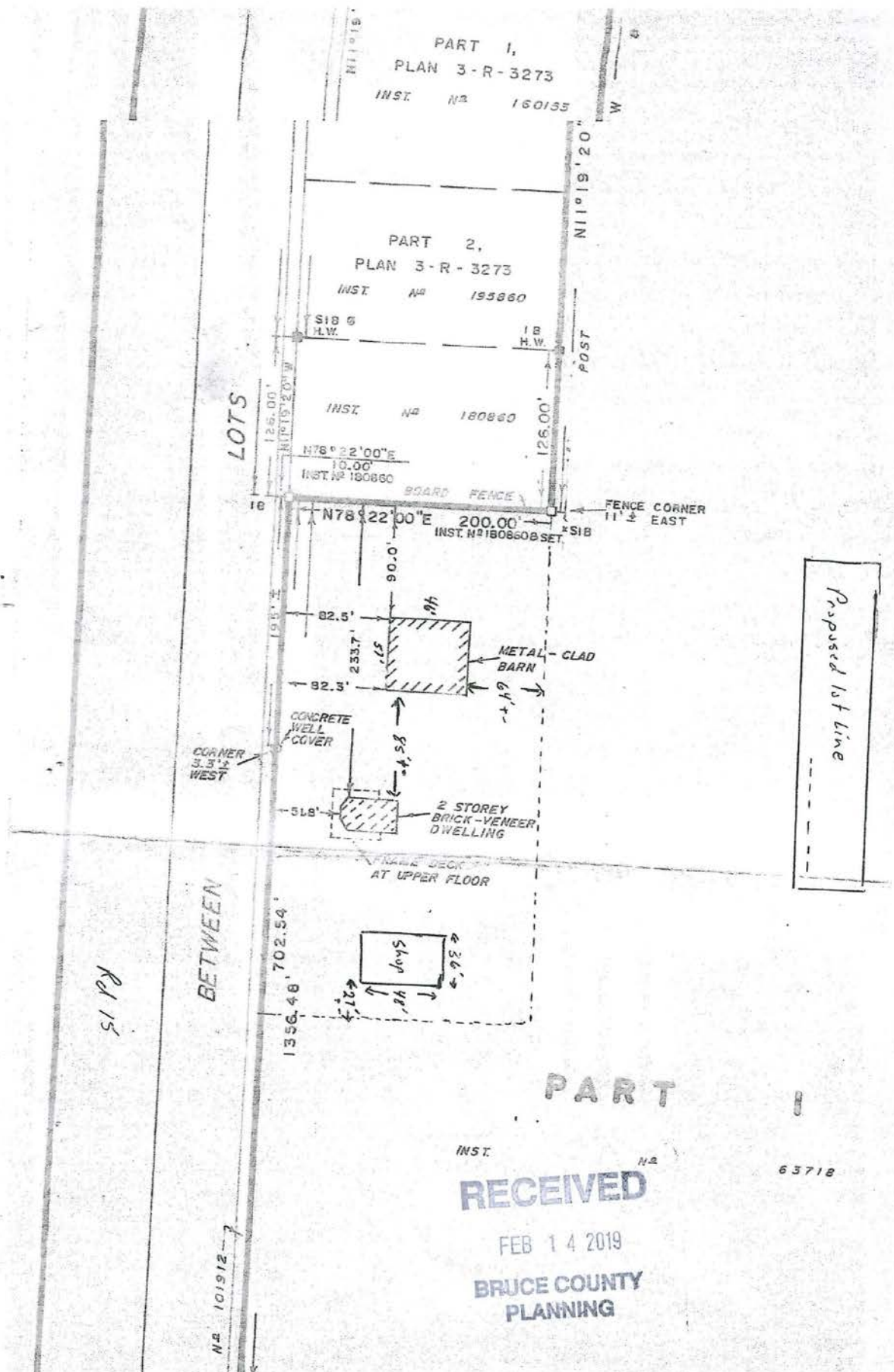
Appendix 1 – Air Photo



Appendix 2 – Proposed Severance



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INST. N^o 63718

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**BRUCE COUNTY
PLANNING**

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Appendix 5 – Applicant's Submission in Support of the Application

In support of my Official Plan Amendment Application the following points are provided.

Our farming operation consists of a father and three sons (supported by our wives, of course) so it is a family operation. We are mainly cash crop farmers.

We have been renting the land in question for twenty some years so are quite familiar with this piece of property and know what crops we can get from the land. It has basically become part of our farming operation over the long period of time we have been renting it. We have cleaned this acreage up over the years of use, removing stone piles, dead trees, cross fences, etc. so we do have time invested in the land. With the exception of an access road along the south edge of this field the whole acreage is useable for cash cropping.

This acreage is located very close to our home farm, being about half a block away, and located between our home farm and a number of other farms we own, rent, and farm. Therefore, it is very convenient to our farming operations and we wish to consolidate this acreage which we have been renting and farming for many years with our other owned farming operations. We now take crops from approximately 1500 acres (it can change yearly, according to what rented lands are available). This may seem like a lot, but, when there are four families to be supported from this acreage it really is not, so when we have a chance to purchase more acreage close to home, we like to take advantage of that opportunity.

We have no interest in owning the house (or other buildings) on the property as we all have our own homes and are not interested in renting out the house and becoming landlords.

If the Eidt's were to sell the property as a whole, the next owners might have their own plans for the property and then it would not be available to us to rent and to continue farming on it.

Even though it is a smaller acreage, the fact that it is so close and convenient for us, make it a nice asset to consolidate with our existing farming operations.

Sincerely
Dave Zettler



* Map Attached

Appendix 6 – Written Submissions from the Public

From: [Ken Freiburger](#)
To: [Planning Applications Walkerton](#)
Subject: Opposition of Zoning Z-16-19.34
Date: Wednesday, May 29, 2019 12:00:23 PM

Good Afternoon,

This email is in reference to the zoning amendment being put forth by Bill & Deb Eidt. I would like to express my concerns, in regards to this amendment, as I am opposed to the severance as indicated in these letters.

I feel as the property should remain as one, being left as a whole. The property is set up with a barn for horses, and if someone wishes to house livestock in the future, they should have the acreage to go with it. The barn itself, without the acreage is not functional for use. The land has been severed previously many times, and my views are that the property should remain as is. The property can be sold, with the land being rented (should the new owners not require) as it has been for a number of years in the past.

There are two properties within close proximity (Strader's & Stephenson's) which has a barn, as well as, larger acreage to accommodate their livestock.

Another concern I have is that, the new buyer of the land itself, down the road applies for a permit to build a house, thus changing the original intent of this severance. I believe there will be other neighbours in opposition, as the land should remain the same.

Feel free to reach out to me should you have any further questions or concerns.

Thank You,

Ken Freiburger

Freiburger Welding & Machine Shop Ltd.

Phone: 519.881.1932

Email: ken@freiburgerwelding.ca

Address: 96 Side Road 15, R.R.2

Walkerton, Ontario N0G 2V0

Website: www.freiburgerwelding.ca

May 29, 2019

Corporation of the County of Bruce
Planning and Development
30 Park Street, Box 848,
Walkerton, ON N0G 2V0

Re: Proposed Official Plan Amendment (Section 22, Planning Act, 1990)

Related Files: Municipality of Brockton Zoning By-Law Amendment Z – 16-19.34 and County of Bruce Application for Consent B-14-19.34

Owner: William Edit and Deborah Edit

Applicant: 584653 Ontario Limited (David Zettler)

Municipal Address: 51 Sideroad 15, Brant

As an owner of adjacent property located at 72 Sideroad 15, Brant , I am advising of my strong **objection to this application**. It appears from the information I received on May 27, 2019 (dated May 17, 2019) that my property is shown as residential. It should noted that this property contains as residence but is also used for agricultural purposes and has been for over 45 years in the operation of breeding, selling, and showing horses. This is not a hobby farm and operated as a farm business.

I would like to point out to Counsel and Planners that the property owned by the Edit's is on an extremely busy road which is used as an alternate route to Hanover connecting with the Southline and is extremely busy at all times. This particular road is known to be one of the worst roads in the County for excessive speed even though the posted limit is 50 km. per hour past the property in question. This road **receives very limited speed enforcement** . It is very difficult to safely enter and exit our property with a horse trailer without actually having someone monitoring traffic at the entrance to the property especially when loaded with animals. It is also very dangerous for the feed trucks and other large vehicles entering and exiting our property. Counsel should also be aware that farm vehicles, tractors, tandem wagons etc. also use this road at all hours of the day and night.
To add another driveway to this already busy road would be dangerous and ill advised.

The property in question has already been allowed two severances. I attended the last public meeting along with other property owners who were not in favour of the severance at that time when the Edit's were allowed to sever a piece of their property so the south of Owen King Construction. It was my understanding at that time that the property was for the personal use of Mr. and Mrs. Edit and they agreed at that time to the stipulation of a buffer zone and that the existing bush south of Owen King Construction was to remain. It was the intent for the bush to remain so as not to interfere with the water table due to the number of private wells servicing the existing properties.

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This property was sold by the Edit's and a great deal of the bush removed to allow for another residence and business. It should be noted that a car oiling business had operated across from Freiburger Welding. Access to the oiling pit was gained from the road allowance at the south end of the Edit property. The pit was dug out and vehicles drove over top and I believe used motor oil was used to oil the vehicles at that time. To the best of my knowledge this soil was never cleaned or removed and could be an environmental hazard these many years later. The location of the pit was between the existing house and the first driveway to the south.

It should also be noted that there is an existing water drainage problem along the frontage of the Edit property as well as other properties on the east side of Sideroad 15. The Township has attempted to correct the problem but water continues to pond on the road when there are heavy rains and snow and ice buildup. There is and has always been a large run off of water along the front of this property due to springs in the fields.

This farm property like many other farm land has had old fence lines and large stone piles as well as trees and wire buried to allow for large machinery to work the land. Septic systems and wells should also be a concern when considering this application.

Many years ago there was a small gravel pit on the east side of the bush used by the then owner of the farm and into this hollowed out area, local farm garbage was disposed of. While this occurred many years ago there may be others who grew up in the area that are also aware of this information.

There are many good reasons why this application should not proceed and it is my hope counsel will carefully consider this matter.

Sincerely,

Sheila Stephenson-Muir
P.O. Box 343,
Walkerton, ON OG 2V0

Owen King Limited

R. R. #2 Box 104, Walkerton, Ontario N0G 2V0

Telephone: 519-881-1771

Facsimile: 519-881-1585

CONCRETE STRUCTURES

BRIDGE MAINTENANCE

EXCAVATION

Email: info@owenkinglimited.com

June 17, 2019

County of Bruce
30 Park Street
WALKERTON, Ontario
N0G 2V0

Attention: Mark Paoli
Senior Planner

Dear Sir:

Re: Proposed Severance from lot 36, Concession 1 SDR

Our company has owned a 3 acre lot which was purchased from Bernard Schnurr in 1966.

When our lot was severed from Lot 36, the Planning Board insisted that a 100' strip behind our lot be kept so that the bush lot would not get severed from the farm in the process. Many years and 2 owners later the bush lot and 100' strip were severed from the farm to create a residential lot. There was a requirement in that severance that no trees could be removed from the front 200' abutting the road allowance or the 100' strip bordering our property. The present owner removed several trees in the buffer zones when he built his home. I asked the Mayor about the clearing but he said there was no restriction on clearing that lot.

So you can see that in the last 2 severances conditions were established and then later ignored. I believe that this will happen here as well. In a few years we will be back discussing a residence being built on this severed lot so it doesn't matter what we do here now.

We are happy with our neighbours and hope that the field next to our property continues as cropland without a residence.

Yours sincerely
OWEN KING LIMITED



Richard King, P. Eng.

Appendix 7

Draft Zoning By-law Amendment **The Corporation of the Municipality of Brockton** **By-Law No. 2019-xxx**

Being a By-Law to Amend the Municipality of Brockton Comprehensive Zoning By-Law No. 2013-26, As Amended,

The Council of the Corporation of the Municipality of Brockton pursuant to Section 34 of the Planning Act, 1990, therefore enacts as follows:

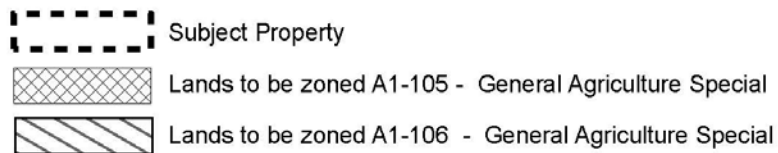
1. That Schedule 'A' to By-Law No. 2013-26, as amended, is hereby further amended by changing the zoning symbol on Con 1 SDR PT Lot 36 RP; 3R3882 Part 1, Geographic Township of Brant, Municipality of Brockton, from General Agriculture (A1) to:
 - a) General Agriculture Special (A1-105) and
 - b) General Agriculture Special (A1-106)as shown on Schedule 'A' attached hereto and forming a part of this By-law.
2. That By-law No. 2013-26, as amended, is hereby further amended by adding the following subsection to Section 6.3 thereof:
 - a) The lands zoned as 'A1-105' on Schedule 'A' to this By-law shall be used in compliance with the 'A1' (Non-Farm Lot) zone provisions contained in this By-law, excepting however:
 - i. The number of nutrient units shall be limited to 1.25 units per hectare;
 - ii. Buildings and structures existing as of July 9, 2019 which do not comply with the provisions of this By-law are hereby recognized. All future buildings and structures, or additions to existing buildings and structures, shall comply with the provisions of this By-law.
 - b) The lands zoned as 'A1-106' on Schedule 'A' to this By-law shall be used in compliance with the 'A1' zone provisions contained in this By-law, excepting however:
 - i. The minimum lot area shall be 11.7 hectares;
 - ii. A 'Dwelling, - Accessory Detached' shall be prohibited.
3. That this By-law shall come into force and effect on the final passing thereof by the Council of the Municipality of Brockton, subject to compliance with the provisions of the Planning Act, R.S.O. 1990.

Read, Enacted, Signed and Sealed this _____ day of _____, 2019.

Mayor - Chris Peabody

Clerk - Fiona Hamilton

Part of Lot 36, Concession 1 SDR, RP 3R3882 Part 1 (51 Sideroad 15 Brant)
Municipality of Brockton (geographic Township of Brant)



Mayor _____
Clerk _____