



Planning Report

To: Municipality of Brockton Council

From: Julie Steeper, Planner

Date: October 13, 2020

Re: Zoning Bylaw Amendment - Z-2020-53 (Milos)

Recommendation:

Subject to a review of submissions arising from the public meeting:

That Council approve Zoning By-law Amendment Z-2020-053 as attached and the necessary by-law be forwarded to Council for adoption.

Summary:

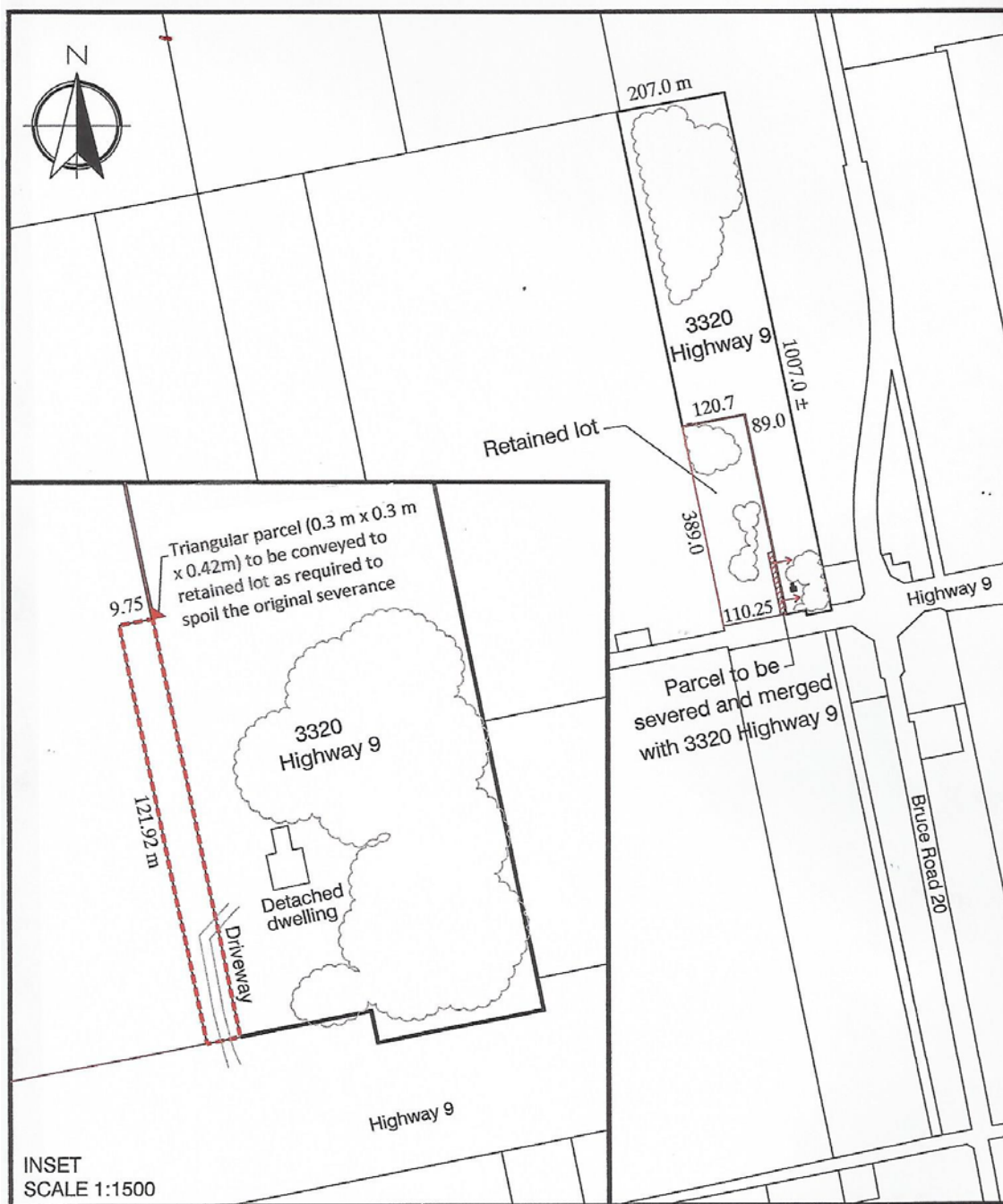
The purpose of the application is to sever a 1188.72 sq m parcel of land containing a driveway from Concession 1 NDR South Part Lot 39 and add it to an adjacent parcel at 3320 Highway 9. The application proposes to seek a site-specific zoning provision to allow for reduced minimum lot area and lot frontage. The proposed minimum lot area for Concession 1 NDR South Part Lot 39 is 4.58 ha. The proposed minimum lot area for 3320 Highway 9 is 15.49 ha and the proposed frontage is 98.75 m. The required minimum lot area and lot frontage is 39 ha and 100 m respectively.

If approved, the effect of the application would facilitate a lot line adjustment correcting a historical encroachment of the driveway on the adjacent lands. This would allow the driveway to be entirely located on 3320 Highway 9 and for the Zoning By-law to reflect the amended dimensions of each lot following the land conveyance. To enable the lot addition, a stipulated consent is proposed to spoil the legal description of the receiving property.

Airphoto



Site Plan



Lot Line Adjustment
3320 Provincial Highway 9
Municipality of Brockton

RD RON DAVIDSON
LAND USE PLANNING CONSULTANT INC.
OWEN SOUND, ONTARIO

SCALE 1:10 000

Planning Analysis

The following section provides an overview of the planning considerations that were factored into the staff recommendation for this application, including relevant agency comments (attached) and planning policy sections.

Minor Boundary Adjustment Review

Section 6.5.3.3.4 of the Bruce County Official Plan allows for lot adjustments for legal or technical reasons. These shall be limited to easements, correction of deeds, quit claims and minor boundary adjustments. These cannot result in the creation of a new lot.

There is no definition of what is considered a 'minor boundary adjustment'. This need to be considered based on the context of the lot and the application. In this instance, both the giving and receiving properties are within the Agricultural Area of Bruce County. These areas are not significantly impacted by the proposed lot adjustment.

The boundary adjustment relates to the driveway on the subject property and has historically been associated with the property at 3320 Highway 9 but is partially within the property at Concession 1 NDR South Part Lot 39. The lot addition of 1188.72 sq m is proposed to correct this historic encroachment.

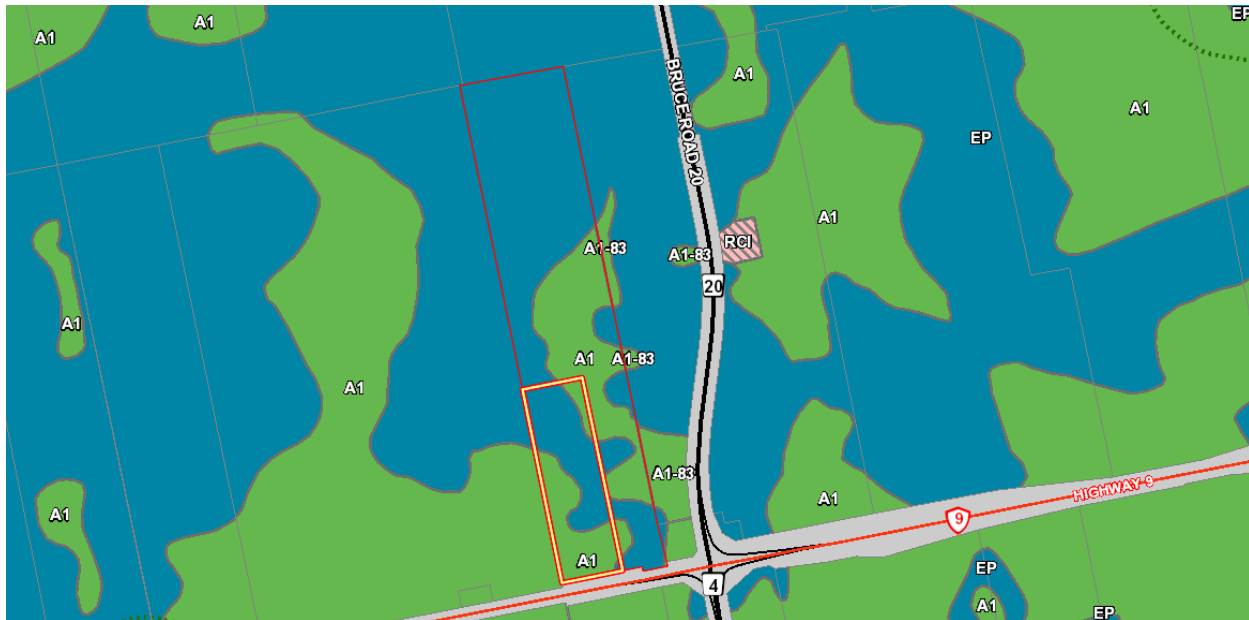
Appendices

- County Official Plan Map
- Local Zoning Map
- Supporting Document: Planning Report by Ron Davidson Land Use Planning Consultant Inc. Dated July 27, 2020
- Agency Comments

County Official Plan Map (Designated Rural Areas, Agricultural Areas & Hazard Land Areas)



Local Zoning Map (Zoned General Agriculture (A1) and Environmental Protection (EP))



Agency Comments

Bluewater District School Board: No objections.

Union Gas: Should the proposed severance impact these services, it may be necessary to terminate the gas service and relocate the line according to the new property boundaries. Any Service relocation required due to a severance would be at the cost of the property owner.

Hydro One: No concerns.

Historic Saugeen Metis: No concerns.

Municipality of Brockton: Requires new entrance with legal access grated from MTO and should be added as a condition on the consent.

Ron Davidson's Response: it is understood that the remaining entrance to the retained parcel is just a field entrance and that it would need to be upgraded to a residential entrance should the future owner intend to build a house. And it's understood that the severance doesn't force MTO to issue such a license. According to the e-mail below, it appears that the intended owner has been advised accordingly, which is good. There should be no need for any condition to be imposed relating to an entrance.

Saugeen Valley Conservation Authority: No concerns and provided in full below.

Bruce County Transportation Services: No Comment.

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JUL 31 2020

BRUCE COUNTY
PLANNING



RON DAVIDSON
LAND USE PLANNING CONSULTANT INC.

July 27, 2020

County of Bruce
Planning & Economic Development Department
30 Park Street
Walkerton, ON
N0G 2V0

Attention: Coreena Smith
Senior Planner

Dear Ms. Smith:

**Re: Application for Consent and Zoning By-law Amendment
Part Lot 39, Concession 1 NDR, Geographic Township of Greenock
Municipality of Brockton, County of Bruce
Owners: Estate of Frank Milos (c/o Laureen Milos) and Laureen Milos**

Further to recent discussions with your office regarding a lot line adjustment, enclosed please find a completed Consent / Zoning By-law Amendment application. Accompanying the application is the County's fee.

To assist your office in evaluating the application, I offer the following:

The Proposal:

The Estate of Frank Milos (c/o Laureen Milos) owns a vacant 4.7 hectare property located along the north side of Provincial Highway 9, approximately 13 kilometres west of Walkerton.

Laureen Milos owns the adjacent 15.38 hectare property containing a detached dwelling. The entrance and most of the driveway associated with this house, however, are located on the above-noted 4.7 hectare parcel. This encroachment issue has existed for several decades

The owners of both parcels wish to rectify this existing encroachment issue at this time. In this regard, the attached Consent application proposes to convey a 9.75 metre x 121.92 metre (1188.72 square metre) parcel of land containing the entrance and driveway from the 4.7 hectare property to the 15.38 hectare property, as illustrated on the attached sketch. No new lot would be created as a result of this lot line adjustment.

An amendment to the Municipality of Brockton Zoning By-law is also needed for the following reasons:

- To reduce the 'minimum lot area' requirement of the A1 zone from 39 hectares to 4.58 hectares to reflect the size of the retained parcel following the land conveyance.
- To reduce the 'minimum lot area' requirement of the A1 zone as it pertains to the benefitting lot from 39 hectares to 15.49 hectares and also reduce the 'minimum lot frontage' requirement of the benefitting lot from 100 metres to 98.75 metres. The lot benefitting from the lot addition is already undersized but has an "existing lot of record" status which allows it to be used in accordance with the A1 zone provisions. This parcel, however, loses this status once the lot addition occurs, and given that the lot will still not comply with the lot area or frontage requirement - despite it become larger - this non-compliance matter needs to be recognized in the Zoning By-law Amendment. This particular aspect of the Zoning By-law Amendment can be considered a "technicality".

Adjacent Lands:

The subject property is located within an area of the former Greenock Township that is represented by a mix of agricultural lands, forested areas and several non-farm residential lots.

Official Plan:

The subject lands fall under the jurisdiction of the Bruce County Official. According to Schedule A, the majority of the lands are designated 'Rural', with some 'Hazard' and a small amount of 'Agricultural' toward the rear of the site. The area to be severed is included in the 'Rural' and 'Hazard' designations.

The 'Rural' consent policies give consideration to limit lot creation. In this particular instance, however, no new lot would be established as a result of the lot line adjustment and therefore the conveyance would not conflict with the density policies of the 'Rural' designation.

Development is generally not permitted within the 'Hazard' designation. On this note, no development or site alteration is proposed. The driveway already exists.

It is evident that the proposal to convey 1188.72 square metres of land from one property to another in order to rectify an existing driveway encroachment situation would not conflict with any aspect of the County Official Plan.

Provincial Policy Statement:

The Provincial Policy Statement (PPS) recognizes the severed parcel as "rural lands" and would not attempt to interfere with the lot line adjustment.

No development or site alteration will result from this conveyance and therefore the requested severance and associated rezoning would not conflict with any other policy including those pertaining to natural heritage, servicing or archaeology.

It is evident that the proposal is consistent with the PPS.

Conclusion and Recommendation:

The proposed lot line adjustment and associated Zoning By-law Amendment conform to the County Official Plan and is consistent with the Provincial Policy Statement, as explained above. The proposal would rectify an encroachment problem that has existed for decades.

Given the merit of the proposal, the request should be granted.

As a condition of Consent, the original severance of the benefiting lot must be spoiled due to the fact that this lot was created by Consent by the Land Division, as confirmed by the owner's solicitor. This spoiling can be achieved by conveying a small portion (e.g. 0.3 m x 0.3 x 0.42 m) of the benefiting lot to a public agency (e.g. Municipality), a practice that is common in Bruce County and throughout Ontario. The details of this conveyance will be discussed between the County and the applicant during the review of the Planning Act applications.

Final Remarks:

I trust you will deem the application to be complete. Should you require additional information, please do not hesitate to contact the undersigned.

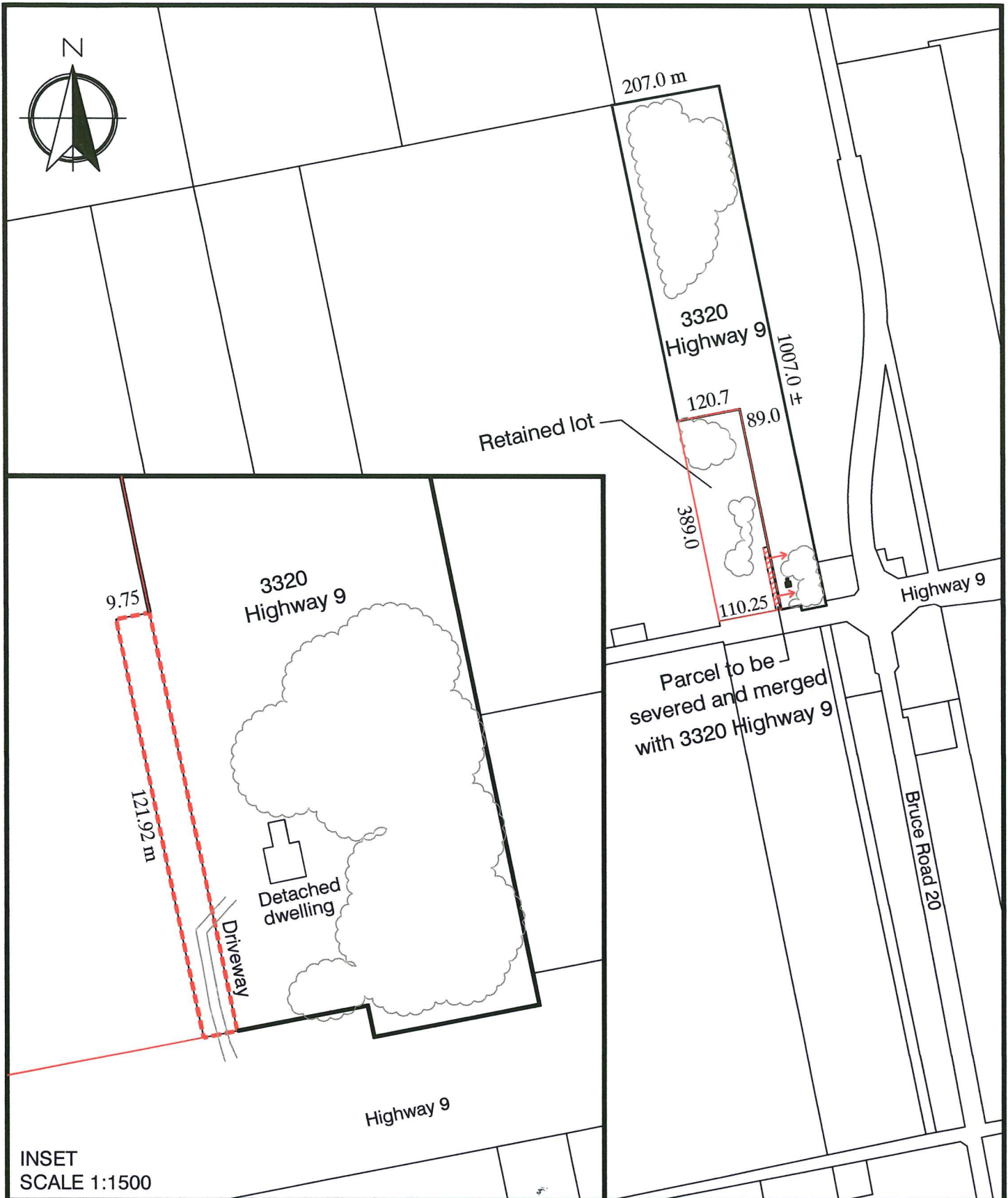
On a final note, I would kindly ask that you advise me of a potential meeting date before actually scheduling the Public Meeting in order to ensure my availability.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Ron Davidson', with a stylized, flowing script.

Ron Davidson, RPP, MCIP

c.c. Lynn Milos



Lot Line Adjustment
3320 Provincial Highway 9
Municipality of Brockton

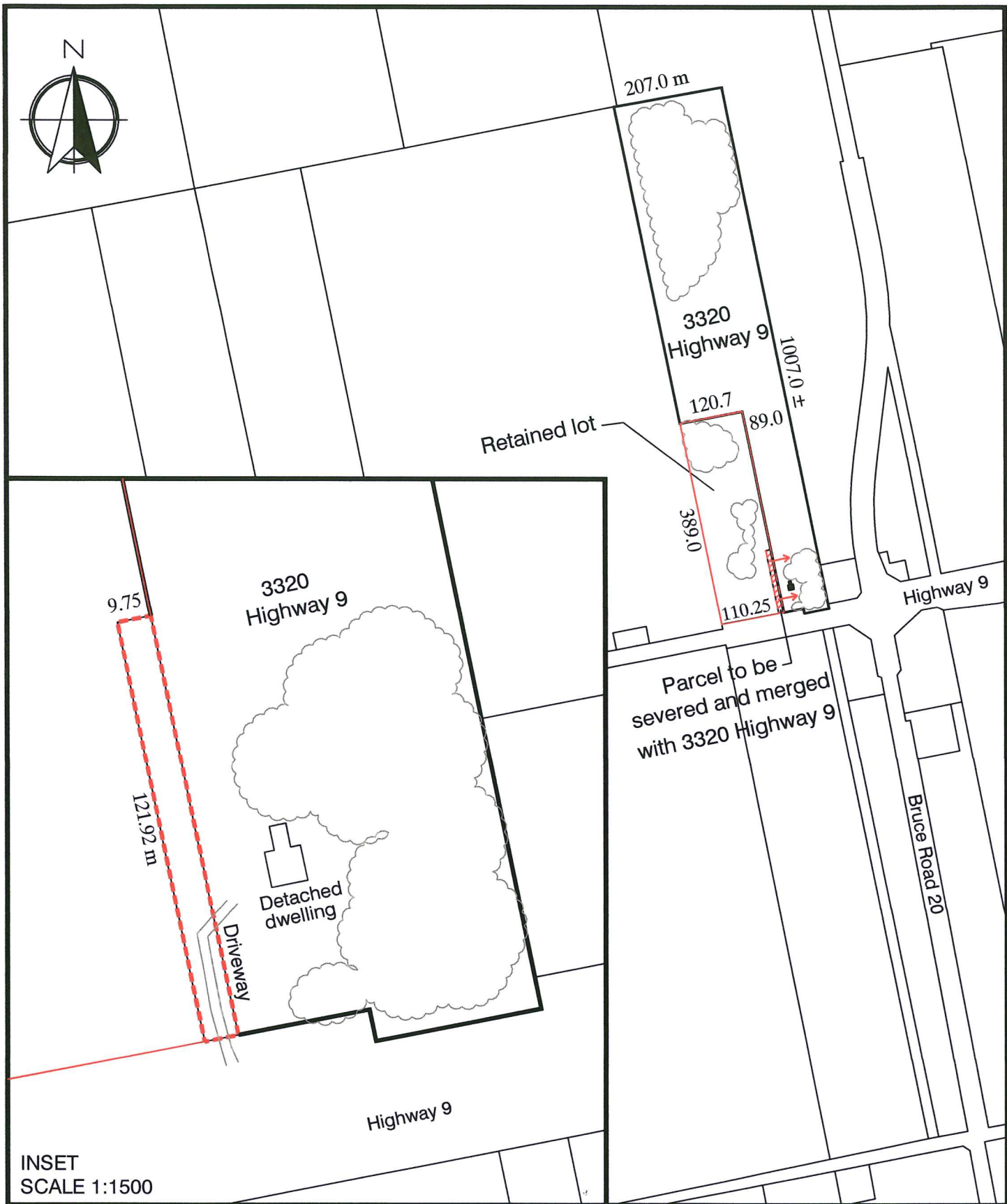
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Tel 519-367-3040, Fax 519-367-3041, publicinfo@svca.on.ca, www.svca.on.ca

SENT ELECTRONICALLY ONLY: jsteeper@brucecounty.on.ca and bcplwa@brucecounty.on.ca

October 1, 2020

County of Bruce Planning & Development Department
30 Park Street
Walkerton, Ontario
N0G 2V0

ATTENTION: Julie Steeper, Planner

Dear Ms. Steeper,

RE: Proposed Consent to Sever Land B-2020-072 and Proposed Zoning By-law Amendment Z-2020-053
3320 Highway 9; and unassigned civic address
Roll No.: 410431000120300; and 410431000120400
Part Lot 39 Concession 1 NDR; and South Part Lot 39 Concession 1 NDR
Geographic Township of Greenock
Municipality of Brockton (Milos)

Saugeen Valley Conservation Authority (SVCA) staff has reviewed the above-noted applications as per our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 3.1 of the Provincial Policy Statement (PPS, 2020) and as a regulatory authority under Ontario Regulation 169/06 (SVCA's Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses Regulation). SVCA staff has also provided comments as per our Memorandum of Agreement (MOA), dated September 2019, with the County of Bruce representing natural hazards, natural heritage, and water resources; and the application has also been reviewed through our role as a public body under the *Planning Act* as per our CA Member approved Environmental Planning and Regulations Policies Manual, amended October 16, 2018.

The purpose of the applications is to sever a parcel of land containing a driveway from South Part Lot 39 Concession 1 NDR and adding it to an adjacent parcel at 3320 Highway 9.

Recommendation

The proposed applications are acceptable to SVCA staff.

Delegated Responsibility and Advisory Comments

SVCA staff has reviewed the applications through our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 3.1 of the Provincial Policy Statement (PPS, 2020). We have also reviewed the applications through our responsibilities as a service provider to the County of Bruce in that we provide expert advice and technical clearance on *Planning Act* applications with regards to natural hazards, natural heritage, and water resources as set out in the PPS, 2020, County Official Plan (OP)



Watershed Member Municipalities
Municipality of Arran-Elderslie, Municipality of Brockton, Township of Chatsworth, Municipality of Grey Highlands,
Town of Hanover, Township of Howick, Municipality of Morris-Turnberry, Municipality of South Bruce,
Township of Huron-Kinloss, Municipality of Kincardine, Town of Minto, Township of Wellington North,
Town of Saugeen Shores, Township of Southgate, Municipality of West Grey

and/or local official plans. Comments below only include features/technical requirements affecting the property.

Natural Hazards:

The natural hazard features affecting the properties are any wetlands and low-laying areas. It is SVCA staff's opinion that the Hazard Lands designation as shown on Schedule A to the Bruce County OP and the Environmental Protection (EP) Zone as shown in the Municipality of Brockton Zoning By-law 2013-26, generally coincides with SVCA Hazard Lands as mapped by the SVCA.

Provincial Policy Statement – Section 3.1

Section 3.1 of the PPS, 2020 states in part that development shall generally be directed to areas outside of: b) hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding and erosion hazards; and c) hazardous sites. It is the opinion of SVCA staff that the applications comply with Section 3.1. of the PPS, 2020. It is the opinion of SVCA staff that safe access in accordance with provincial policy will be achieved for both properties.

County of Bruce OP Policies

Section 5.8 of the County of Bruce OP generally directs development to be located outside of Hazardous Land Area. It is the opinion of SVCA staff that the applications appear to be consistent with the policies of the Bruce County OP.

Natural Heritage:

Based on SVCA staff's desktop review of the applications, it is our opinion that the natural heritage features affecting the property include significant woodlands, fish habitat and its adjacent lands, and habitat of endangered species and threatened species.

Provincial Policy Statement – Section 2.1

Section 2.1 of the PPS, 2020 states in part that development shall not be permitted in significant woodlands, wetlands, fish habitat and its adjacent lands, habitat of endangered species and threatened species and the adjacent lands to the above referenced features except in accordance with the specified policies found in Section 2.1. It is the opinion of SVCA staff that the applications appear to be consistent with Section 2.1, Natural Heritage policies of the PPS; with the exception of policy 2.1.7 of the PPS, threatened and endangered species, which must be addressed by Ministry of Environment, Conservation and Parks (MECP), as noted below.

Bruce County OP Policies

Significant Woodlands

Although there is no County-wide mapping for significant woodlands, SVCA staff is of the opinion that significant woodlands are located on and adjacent to the properties. SVCA staff notes that significant woodlands are not determined based on property boundaries, nor are they considered interrupted by standard road allowances or roadways. Furthermore, Ministry of Natural Resources and Forestry (MNRF) mapping shows forest cover of 30-40% for the Geographic Township of Greenock. However, according to Section 4.3.2.6.2ii of the Bruce County

OP, there is no requirement for the preparation of an Environmental Impact Study (EIS) to address the woodlands, based on the proposal.

Fish Habitat and its Adjacent Lands

An unnamed tributary of Greenock Creek appears to headwater at the 3320 Highway 9 property. The watercourse is considered fish habitat by SVCA staff. Section 4.3 of the Bruce County OP generally prohibits development within fish habitat and its adjacent lands, except in accordance with applicable policies. SVCA staff are of the opinion that the negative impacts to fish habitat and its adjacent lands as a result of this proposal will be negligible, and SVCA staff are not recommending the preparation of an EIS at this time.

Habitat of Endangered Species and Threatened Species

Although not mapped in the Bruce County OP, it has come to the attention of SVCA staff that habitat of endangered species and threatened species may be located on and/or on lands adjacent to the property. Section 4.3.2.7 of the Bruce County OP states in part that development will not be permitted within habitat of endangered species and threatened species, and their adjacent lands. It is the role of the SVCA to identify habitat of endangered species and threatened species through a screening process in consideration of the PPS, 2020 and local policies, however it is the responsibility of the applicant to ensure the endangered species and threatened species policy referred to in the PPS, 2020 has been appropriately addressed. Please contact the MECP for information on how to address this policy. MECP inquiries can be addressed to SAROntario@ontario.ca.

Statutory Comments

SVCA staff has reviewed the applications as per our responsibilities as a regulatory authority under Ontario Regulation 169/06 (SVCA's Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses Regulation). This regulation, made under Section 28 of the *Conservation Authorities Act*, enables SVCA to regulate development in or adjacent to river or stream valleys, Great Lakes and inland lake shorelines, watercourses, hazardous lands and wetlands. Subject to the CA Act, development taking place on or adjacent to these lands may require permission from SVCA to confirm that the control of flooding, erosion, dynamic beaches, pollution or the conservation of land are not affected. SVCA also regulates the alteration to or interference in any way with a watercourse or wetland.

The majority of both properties are within the SVCA Approximate Screening Area, associated with the SVCA's Ontario Regulation 169/06. As such, development and/or site alteration within the SVCA Approximate Screening Area, on either property may require permission from SVCA, prior to carrying out the work.

"Development" as defined under the *Conservation Authorities Act* means:

- a) *the construction, reconstruction, erection or placing of a building or structure of any kind;*
- b) *any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure;*
- c) *site grading; or,*
- d) *the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.*

And;

“Alteration” as per Section 5 of Ontario Regulation 169/06 generally includes the straightening, diverting or interference in any way with a river, creek, stream or watercourse, or the changing or interfering in any way with a wetland.

To determine where the SVCA Approximate Screening Area is located associated with our Regulation on the properties, please refer to the SVCA’s online mapping program, available via the SVCA’s website at <http://eprweb.svca.on.ca>.

SVCA Permission for Development or Alteration

If development or alteration including construction, reconstruction, conversion, grading, filling or excavation, including agricultural tile drainage, is proposed within the SVCA Approximate Screening Area on either property, the SVCA should be contacted, as permission may be required.

Summary

SVCA staff has reviewed the applications in accordance with our MOA with the County of Bruce, and as per our mandated responsibilities for natural hazard management, including our regulatory role under the *Conservation Authorities Act*.

The applications are acceptable to SVCA staff.

Given the above comments, it is the opinion of the SVCA staff that:

- 1) Consistency with Section 3.1, Natural Hazard policies of the PPS, 2020 has been demonstrated;
- 2) Consistency with Section 2.1, Natural Heritage policies of the PPS, 2020 has been demonstrated, with the exception of endangered species and threatened species which must be addressed by the applicant; and
- 3) Consistency with local planning policies for natural hazards and natural heritage has been demonstrated, with the exception of endangered species and threatened species which must be addressed by the applicant.

Please inform this office of any decision made by the Municipality of Brockton and/or the County of Bruce with regards to the applications. We respectfully request to receive a copy of the decisions and notices of any appeals filed. Should you have any questions, please contact the undersigned.

Sincerely,



Michael Oberle
Environmental Planning Technician
Saugeen Conservation
MO/

cc: Fiona Hamilton, Clerk, Municipality of Brockton (via email)
Dan Gieruszak, Authority Member, SVCA (via email)