



Planning Report

To: Municipality of Brockton Council

From: Julie Steeper, Planner

Date: May 11, 2021

Re: Zoning By-law Amendment - Z-2021-018 (Van Vuuren)

Recommendation:

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

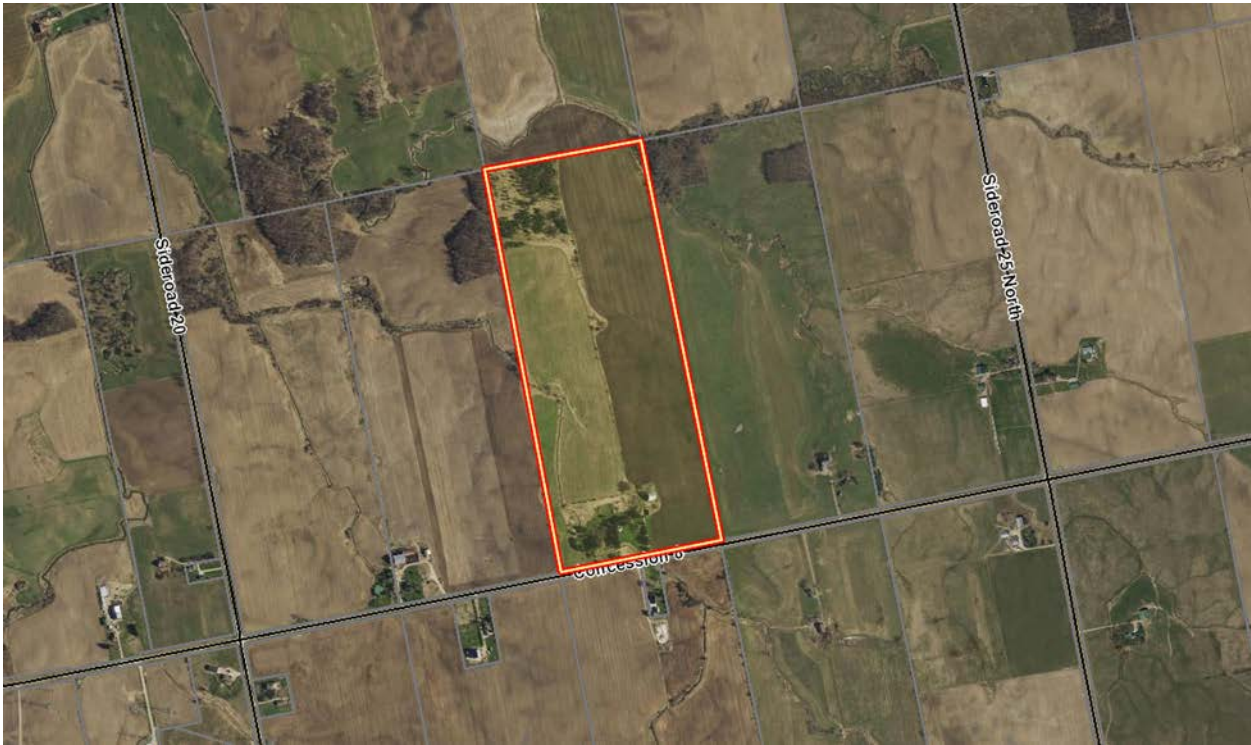
That Council approve Zoning By-law Amendment Z-2020-018 as attached and the necessary by-law be forwarded to Council for adoption.

Summary:

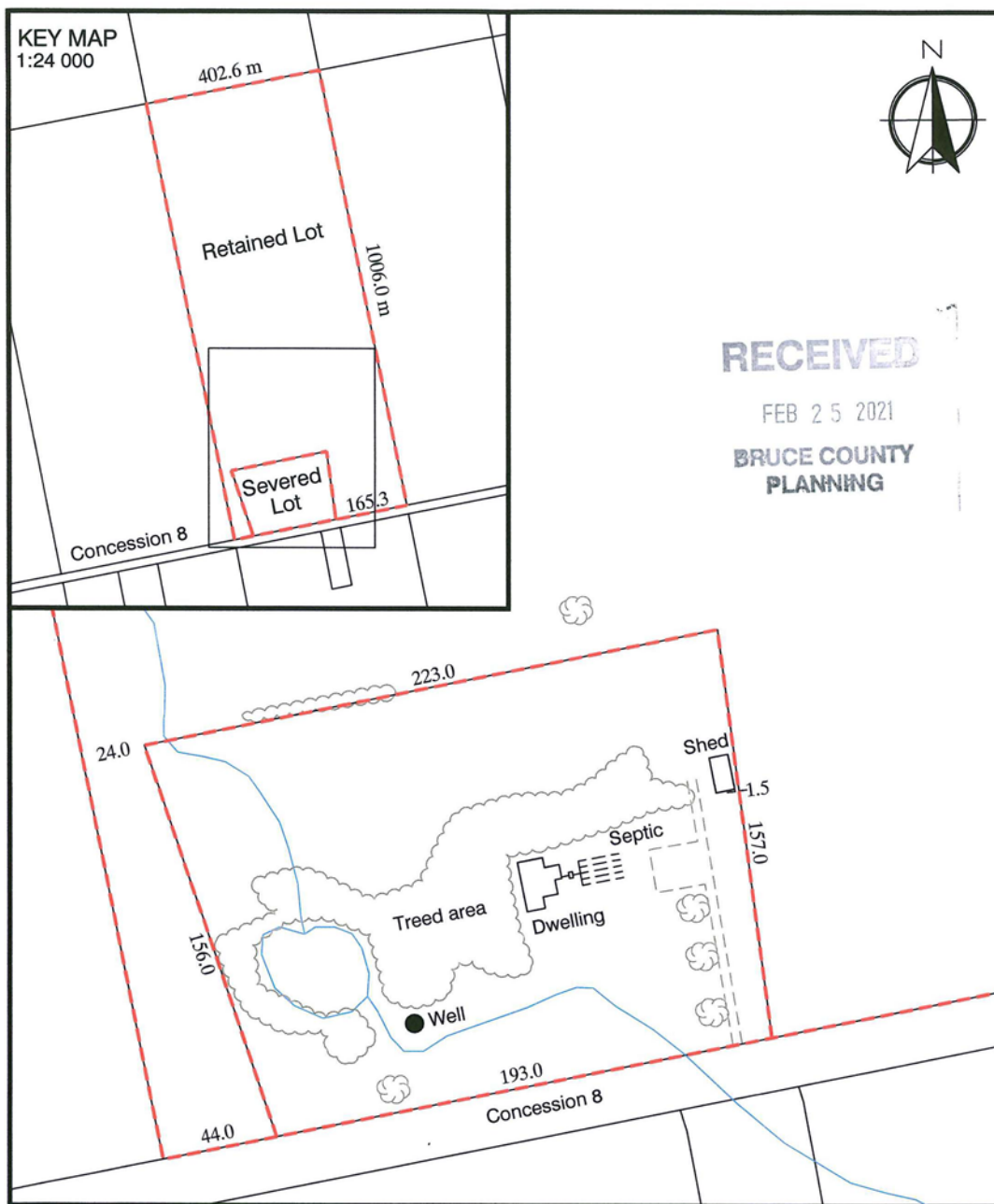
The purpose of the application is to facilitate the severance of a +/-3.25 ha surplus farm dwelling lot from a 40.47 ha parcel at 482 Concession 8, in the Municipality of Brockton. An amendment to the Zoning By-law is required in order to facilitate the severance. The Zoning By-law amendment will limit the number of nutrient units to 1.25 units per hectare for the severed non-farm lot; prohibit an accessory detached dwelling on the retained agricultural lot; allow a minimum lot area of +/-37.22 ha instead of 39 ha on the retained agricultural lot; and recognize any existing buildings and structures on both the retained and severed lots which do not comply with the provisions of the By-Law. All future buildings and structures, or additions to existing buildings and structures, will need to comply with the provisions of the By-Law. A holding provision requiring an Archaeological Assessment for the lands containing high archaeological potential is proposed. If approved, the effect of the application would facilitate a surplus farm dwelling severance from the subject lands.

The related consent file (B-2021-021) will be considered by the County at a later date.

Airphoto



Site Plan



Proposed Surplus Farmhouse Severance
482 Concession 8
Elmwood, ON

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

SCALE 1:2000

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.

Surplus Farm Dwelling Severance

Surplus farm dwelling severances are generally considered to be good for agriculture, on balance, because they enable farmers who have consolidated different lots into one operation to dispose of houses on the land that are surplus to the needs of the operation.

The only kind of residential severance allowed under the Provincial Policy Statement is a surplus farm dwelling severance provided that it: is the result of farm consolidation, the new lot is limited in size and that residential dwellings are prohibited on the remnant parcel.

The subject lands are designated Agricultural Area and Hazard Land Area in the Bruce County Official Plan. To meet the Official Plan policies for surplus farm dwelling severances, the owner of the farmlands 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 requires that the lot proposed for the residence and buildings surplus to the farming operation 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 area as possible is removed from the agricultural lands.

The retained lands will continue to be farmed and will be in the ownership Mr. & Mrs. Van Vuuren, who meet the criteria as bona fide farmers. The severed land with the single detached dwelling and shed is surplus to the owners' needs. The owners will continue to farm the remaining acreage. The owners live and farm in the immediate area.

The Bruce County Official Plan also requires a minimum farm size of generally 40 ha, which is achieved in this instance on the retained lands. The zoning will place a restriction on the retained lands that will not permit another house. A holding provision requiring an Archaeological Assessment for the lands containing high archaeological potential is proposed. This would implement Provincial and Official Plan policies.

Required Zoning By-law Amendments

An amendment to the Zoning By-law is required in order to facilitate the severance.

The proposed severed non-farm parcel will be rezoned from A1 - General Agriculture to A1-116-H1 - General Agriculture Special with Holding with the following provisions:

- The number of nutrient units shall be no more than 1.25 units per hectare;
- Buildings and structures existing as of May 11, 2021 which do not comply with the provisions of the By-Law are hereby recognized. All future buildings and structures, or additions to existing buildings and structures, shall comply with the provisions of the By-Law; and
- Notwithstanding their underlying zoning designation, on those lands identified as being subject to the "H1" Holding zone, lot grading; excavation; and/or construction shall not be permitted unless the Holding (H1) zone provision is removed. The area of the H1 zone that may be lifted shall be limited to the area included in the assessment and may only be removed by Council upon:
 - i. Approval by the Zoning Administrator of an Archaeological Assessment which has been:
 - a. conducted by an archaeologist licensed in the Province of Ontario; and,
 - b. confirmed by the appropriate Ministry to have been accepted into the Ontario Public Register of Archaeological Reports and,
 - ii. Confirmation to the satisfaction of the Zoning Administrator that the recommendations of the archaeological report (if any) have been implemented.

The proposed retained farm parcel will be rezoned from A1 - General Agriculture to A1-117 - General Agriculture Special and A1-117-H1 - General Agriculture Special with Holding with the following provisions:

- A 'Dwelling, - Accessory Detached' shall be prohibited;
- That the lot area shall be no less than +/-37.22 ha;
- Buildings and structures existing as of May 11, 2021 which do not comply with the provisions of the By-Law are hereby recognized. All future buildings and structures, or additions to existing buildings and structures, shall comply with the provisions of the By-Law; and
- Notwithstanding their underlying zoning designation, on those lands identified as being subject to the "H1" Holding zone, lot grading; excavation; and/or construction shall not be permitted unless the Holding (H1) zone provision is removed. The area of the H1 zone that may be lifted shall be limited to the area included in the assessment and may only be removed by Council upon:
 - i. Approval by the Zoning Administrator of an Archaeological Assessment which has been:
 - a. conducted by an archaeologist licensed in the Province of Ontario; and,
 - b. confirmed by the appropriate Ministry to have been accepted into the Ontario Public Register of Archaeological Reports and,
 - ii. Confirmation to the satisfaction of the Zoning Administrator that the recommendations of the archaeological report (if any) have been implemented.

The EP - Environmental Protection zone will remain unchanged.

Appendices

- County Official Plan Map
- Local Zoning Map
- List of Supporting Documents
- Agency Comments
- Public Notice

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



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



List of Supporting Documents and Studies

- Planning Report by Ron Davidson Land Use Planning Consultant Inc. Dated February 15, 2021.
- Surplus Farm Dwelling Severance Information Sheet by Mr. and Mrs. Van Vuuren Dated February 11, 2021.

Agency Comments

Municipality of Brockton:

Roads Supervisor: The civic address is to remain with the severed parcel.

Chief Building Official (CBO): A 11 metre setback from the existing shed will be needed to the property line or documentation provided to otherwise show compliance with the National Farm Building Code of Canada.

Based on the CBO's direction and comments, the following condition will be added to the Consent application: "The shed on the severed lands must be removed or proof of compliance provided to the satisfaction of the Chief Building Official that the existing buildings are in compliance with the National Farm Building Code of Canada 3.1.2. Spatial Separation provisions."

Hydro One: No concerns.

Bruce-Grey Catholic District School Board: No comments.

Historic Saugeen Metis: No concerns.

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

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FEB 25 2021

BRUCE COUNTY
PLANNING



RON DAVIDSON
LAND USE PLANNING CONSULTANT INC.

February 15, 2021

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

Attention: Julie Steeper
Planner

Dear Julie:

**Re: Application for Zoning By-law Amendment and Consent to Sever
Lot 23, Concession 9,
Geographic Township of Brant, Municipality of Brockton
County of Bruce
Owner: Paul and Suzanne Newton
Applicant: Evarardus (Ed) and Joanna (Anita) van Vuuren**

Further to recent discussions regarding this proposal to sever a surplus farmhouse lot, enclosed please find a completed joint Zoning By-law Amendment / Consent application. Accompanying the application is the County's application fee.

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

The Proposal:

Everardus (Ed) and Joanna (Anita) van Vuuren are in the process of acquiring a 40.47 hectare farm from Paul and Suzanne Newton. The sale will be completed on April 1, 2021.

Situated on the farm is a detached dwelling and a shed. Mr. and Mrs. van Vuuren are bona fide farmers, and they own and actively farm two other farms in the area.

The residence on this particular parcel of land is surplus to their needs and therefore the van Vuurens propose to sever a 3.25 hectare non-farm residential lot containing the house and shed and retain the remaining 37.22 hectares of land. The severance request would be considered under the “surplus farmhouse” policies of the Bruce County Official Plan.

The proposed lot creation is illustrated on severance sketch included in this Planning Report.

The Subject Lands:

The subject property is located along the north side of Concession 8, in the former Brant Township.

Situated on the site is the aforementioned detached dwelling and shed. In the 2015 aerial photograph available on the County’s GIS program, a barn appears to exist near the northeast corner of the proposed lot (on the retained parcel); however, this structure no longer exists.

Approximately 32 hectares of this 40.47 hectare property are actively cash-cropped. A small area in the north area in the northwest corner of the site is partially treed and scrub land. A small watercourse meanders throughout the site including the severed parcel.

The parcel to be severed includes no land that is actively cash-cropped.

Adjacent Lands:

Land uses within the immediate vicinity of the subject property are represented mostly by agricultural activity. There is a non-farm residential lot to the immediate south of the subject property and another to the southwest.

Official Plan:

The subject lands fall within the jurisdiction of the County of Bruce Official Plan. No local Official Plan is in effect for this area of the Town.

According to Schedule A (Land Use) of the County Official Plan, the majority of the farm is designated 'Agricultural'; however, a large amount of 'Hazard' designated lands also exist on the site due primarily to the watercourse. Approximately 40% of the proposed severed lot is designated 'Hazard'.

The 'Agricultural' policies of Section 6.5.3.3, paragraph (1) generally prohibit lot creation except where the severance results in farms lots (both severed and retained) that are 40 hectares in size or greater or in situations where the severance involves a farmhouse that has been rendered surplus as a result of bona fide farmer enlarging his/her farm holdings. With regard to the latter, the policies of the Section 6.5.3.3, paragraph (3) state:

b) *Where the lot will be for an existing residence and buildings surplus to a farming operation as a result of farm consolidation provided:*

i) *The owner of the lands to be severed is 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 from; 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. In situations where the agricultural portion of the subject lands is rented in whole or in part to others, the owner of the subject lands shall not qualify as a 'bona fide farmer'. A 'bona fide farmer' shall be defined as to include a limited company, sole proprietorship, incorporated company, numbered company, partnership, non-profit and other similar ownership forms.*

Comment: Mr. and Mrs. van Vuuren are bona fide farmers who own and actively farm three other properties, for a total of 100 hectares. This total does not include the subject property which they'll acquire on April 1, 2021. A list of their current properties is provided on the attached "Surplus Farm Dwelling Severance Information Sheet".

The van Vuurens reside on their farm located at Lot 23, Concession 10, former Brant Township.

Based on the foregoing, the van Vuurens would qualify to sever the surplus farmhouse on the subject lands.

ii) *The lot proposed for the residence and buildings surplus to the farming operation shall 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.

Comment: The proposed non-farm residential lot will comprise 3.25 hectares of land. Whereas is lot of this size would be considered larger than most new lots involving a surplus farmhouse, it's very important to note that this particular severance will not result in the loss of any farmland or remove any land from the farm parcel that could realistically be improved and used for agricultural purposes due largely to the location of the watercourse that traverses the severed parcel. There are also several mature trees on the severed parcel including tree lines that will serve as the westerly and northerly limits of the severed parcel. During the preconsultation discussions with the County, the proposed lot size was considered to be acceptable in this instance.

- ii) The remnant agricultural lands 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.*

Comment: This restriction will be placed on the zoning of the retained parcel.

- iv) This Official Plan requires the severance of a dwelling/residence surplus to a farming operation to comply with MDS I. 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 MDS I compliance.*

Comment: This policy predates the Minimum Distance Separation (MDS) Document which states that MDS does not apply in the case of the severance of "surplus farmhouse" where the farmhouse and the nearby livestock facility are located on separate lots unless otherwise required by a municipal Official Plan policy. On that note, the County of Bruce Planning Department has made it abundantly clear during the recent review of other surplus farmhouse consent proposals that policy 6.5.3.3. (3) b) iv) above does not apply in this situation.

- v) Given that no new dwelling/residence can be erected as a result of the residence surplus to a farm operation being severed from the farm holding, the severance shall not need to meet the Mineral Resource*

Area, Aggregate/Quarry Operation or sanitary landfill site setback requirements.

Comment: The above-referenced setback policy is not to be applied, as noted.

vi) *The existing surplus dwelling/residence is habitable at the time of application.*

Comment: The farmhouse situated on the property is in excellent and is currently occupied.

vii) *The lot shall be located a minimum of 123 metres away from the boundary of an existing licensed gravel pit or 213 metres away from the boundary of an existing licensed quarry and not within 500 metres of lands zoned for an active landfill site.*

Comment: According to subsection v) above, this policy is not relevant.

In summary, it is evident that the proposal to sever a 3.25 hectare lot containing an existing farm dwelling would conform to the surplus farmhouse policies of the Bruce County Official Plan.

Provincial Policy Statement:

The Provincial Policy Statement (PPS) strongly encourages the preservation of prime agricultural land by generally prohibiting the creation of smaller farm parcels or residential lots in areas having strong agricultural capabilities. That notwithstanding, in a manner identical to the County's Official Plan, Section 2.3.4.1 *Lot Creation and Lot Adjustment* of the PPS does give consideration to severances in prime agricultural areas involving:

c) *a residence surplus to a farming operation as a result of farm consolidation, provided that:*

1. *the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and*
2. *the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the*

remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective;

Comment: The dwelling located on the subject lands would be surplus to the residential needs of Mr. and Mrs. van Vuuren as a result of him acquiring this farm parcel.

As noted earlier, the lot will be kept as small as possible. No actively-tilled farmland will be lost through this severance.

No other policies of the Provincial Policy Statement are relevant to the proposed lot creation. Based on the foregoing, the proposed severance and rezoning should be deemed consistent with the PPS.

Town of Saugeen Shores Zoning By-law:

The subject lands are zoned mostly 'A1' (Agricultural) but with several areas of 'EP' (Environmental Protection).

The 'minimum lot area' and 'minimum lot frontage' requirements of the 'A' zone are 39 hectares and 100 metres respectively for an agricultural lot and 0.5 hectares and 40 metres for a non-farm residential lot comprising between 0.5 and 4.0 hectares of land.

The severed parcel will comply with the lot area and frontage requirements for a non-farm residential lot. It should be noted, however, that the severance would create a deficient side yard for the existing shed. Whereas the Zoning By-law requires a 4.5 metre side yard, the proposal is to provide only 1.5 metres in order to keep all the cash-cropped land intact. The requested Zoning By-law Amendment would amend this provision accordingly.

The Zoning By-law Amendment would also reduce the minimum lot area requirement for an agricultural parcel from 39 metres to 37.22 hectares. Furthermore, the Amendment would apply a "no dwelling" clause to the zoning of the farmlands as suggested in the Provincial Policy Statement and required by the County of Bruce Official Plan.

Summary and Conclusion:

The proposed lot creation conforms with the County of Bruce Official Plan policies pertaining to surplus farm house consents. The proposal is also consistent with the Provincial Policy Statement.

It should be noted that Mr. and Mrs. van Vuuren qualify under the “surplus farmhouse” consent policies of the Official Plan and the Provincial Policy Statement but the current owners, Mr. and Mrs. Newton, do not. In this regard, a condition of Consent must be imposed stating: *“That the solicitor provide an undertaking to register the retained parcel in the name of Evarardus and Joanna van Vuuren.”* It’s quite possible that the entire property will be registered in their name by the time the conditional consent is granted, in which case the inclusion of this conditional would not be necessary; however, there’s no harm in including it.

Allowing for the applicants to file a “surplus farmhouse” Consent / Zoning By-law Amendment application before they actually become the owners is an approach that has been used in the past in Bruce County and accepted by the Planning Department.

Based on the foregoing, favourable consideration of the submitted Consent and Zoning By-law Amendment applications should be given

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

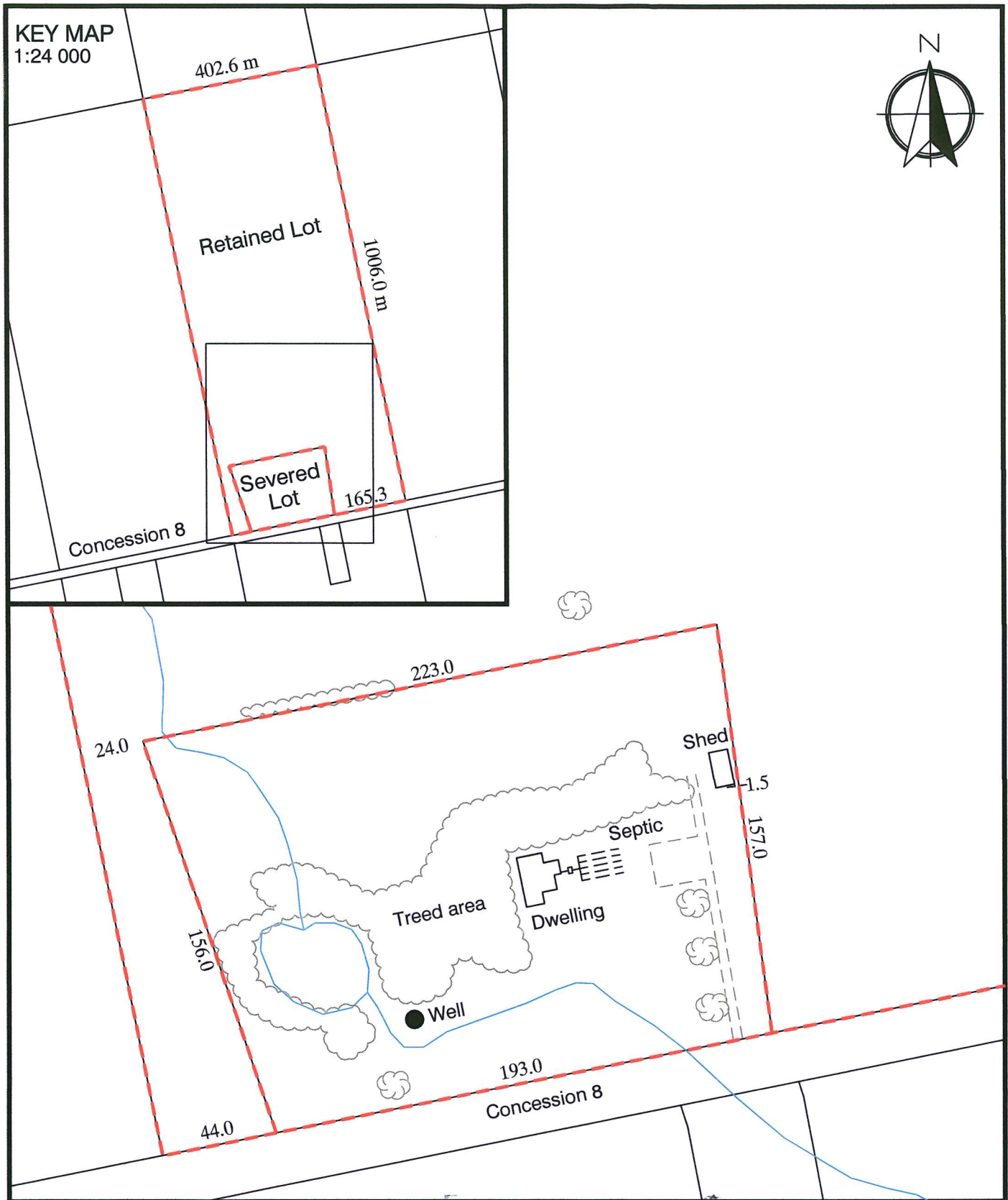
Before scheduling the public meeting for the Zoning By-law Amendment, please advise of the potential meeting date to ensure our availability.

Respectfully submitted,



Ron Davidson, RPP, MCIP

c.c. Evarardus and Joanna van Vuuran



Proposed Surplus Farmhouse Severance
482 Concession 8
Elmwood, ON

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FEB 25 2021

**BRUCE COUNTY
PLANNING**

RD

RON DAVIDSON
LAND USE PLANNING CONSULTANT INC
OWEN SOUND, ONTARIO

SCALE 1:2000



County of Bruce
Planning & Development Department
30 Park Street, Box 848
Walkerton, ON N0G 2V0
brucecounty.on.ca
226-909-5515



April 9, 2021

File Number: Z-2021-018

Public Meeting Notice

You're invited to participate

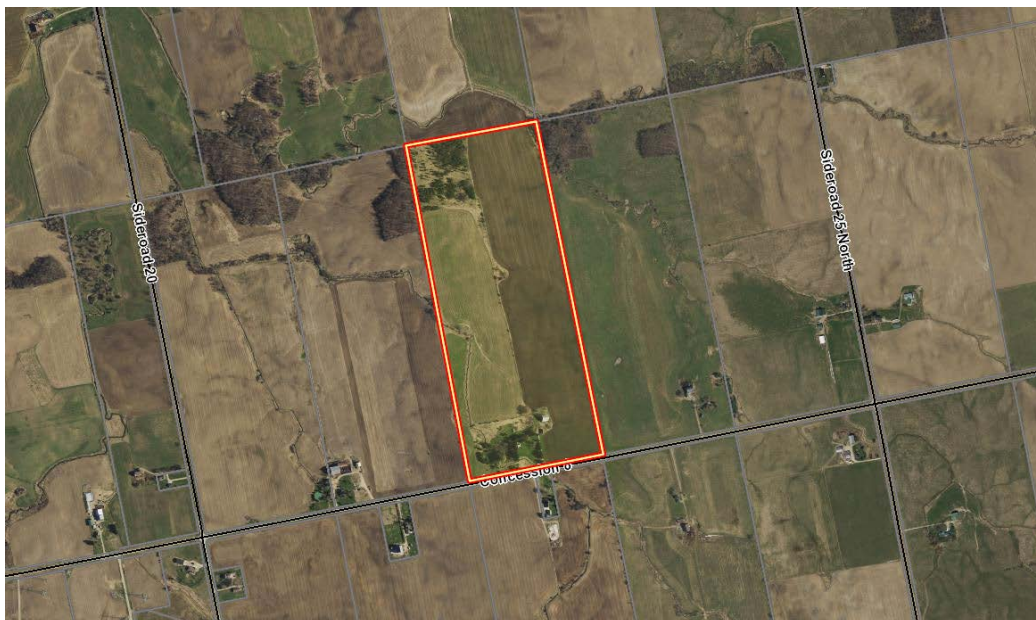
Tuesday, May 11, 2021 at 7:00 pm

As a result of the COVID-19 Pandemic, the Municipality of Brockton council meetings are being held in electronic format. For information on how to participate in the public hearing, please refer to the following page or visit the municipal website at:

<https://www.brockton.ca/en/our-services/Current-Council-Meeting-Agenda.aspx>.

Please contact the Municipality of Brockton at fhamilton@brockton.ca or 519 881 2223 ext 124 if you have any questions regarding how to participate in the meeting.

A change is proposed in your neighbourhood: The purpose of the application is to sever a surplus residential lot of 3.25 ha from a 40.47 ha agricultural parcel. The Zoning By-law amendment is required to allow a minimum lot area of 37.22 ha instead of 39 ha on the retained agricultural lot and to prohibit future residential buildings as well as a holding provision. The related consent file is B-2021-021.



482 CONESSION 8 – CON 9 LOT 23 (Brant), Municipality of Brockton
Roll Number 410434000703200

COVID-19 Notice: Bruce County Planning offices are closed to the public until further notice. Our staff would be pleased to connect with you by email or phone.

Learn more

You can view more information about the application at <https://brucecounty.on.ca/living/land-use>. Our staff would be pleased to connect with you by email (bcplwa@brucecounty.on.ca) or phone (226-909-5515). Once our offices re-open, information about the application will be available in person at the County of Bruce Planning Office noted above, between 8:30 a.m. and 4:30 p.m. (Monday to Friday).

The Planner on the file is: Julie Steeper

Have your say

Comments and opinions submitted on these matters, including the originator's name and address, become part of the public record, may be viewed by the general public and may be published in a Planning Report and Council Agenda.

1. Please contact us by email bcplwa@brucecounty.on.ca, mail, or phone (226-909-5515) if you have any questions, concerns or objections about the application.
2. You can participate in the public meeting. For information on how to participate in the public meeting, please visit the municipal website at: <https://www.brockton.ca/en/our-services/Current-Council-Meeting-Agenda.aspx>.

How to access the public meeting

Click the link below to join the webinar:

<https://us02web.zoom.us/j/83115557699?pwd=a0JwLzJXTzNIYzZCeGp0cWIMUkVJZz09>

Passcode: 372960

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

Canada: +1 438 809 7799 or +1 587 328 1099 or +1 647 374 4685 or
+1 647 558 0588 or +1 778 907 2071 or +1 204 272 7920

Webinar ID: 831 1555 7699

Passcode: 022703

International numbers available: <https://us02web.zoom.us/j/kdVy9cS2Bg>

Stay in the loop

If you'd like to be notified of the decision of the approval authority on the proposed applications, you must make a written request to the Bruce County Planning Department.

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Know your rights

Section 34(11) of the [Planning Act](#) outlines rights of appeal for Zoning By-law Amendment applications.

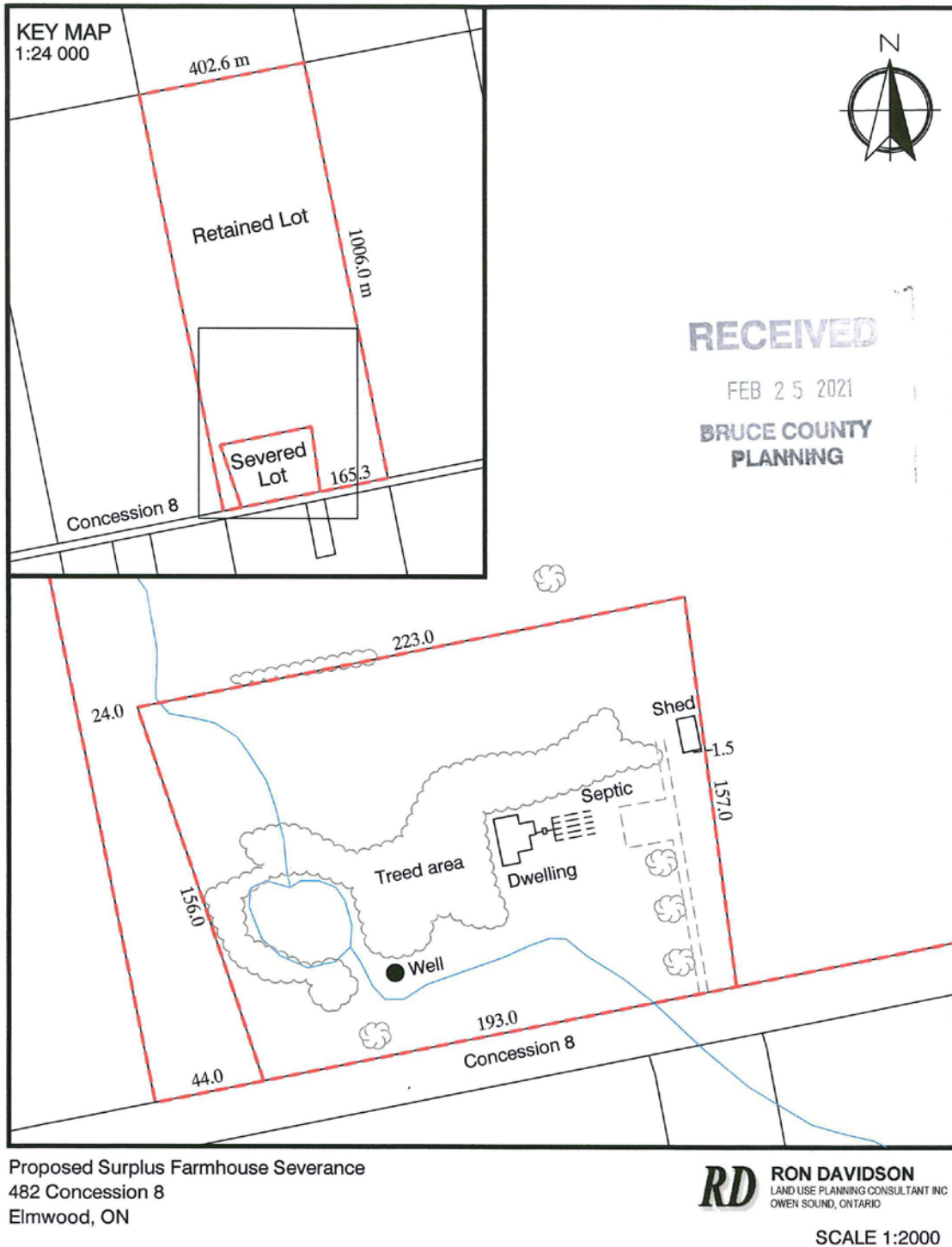
If a person or public body would otherwise have an ability to appeal the decision of the Council of the Municipality of Brockton to the Local Planning Appeal Tribunal but the person or public body does not make oral submissions at a public meeting or make written submissions to the Bruce County Planning Department before the by-law is passed, the person or public body is not entitled to appeal the decision.

If a person or public body does not make oral submissions at a public meeting, or make written submissions to the Bruce County Planning Department before the by-law is passed, the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

For more information please visit the Local Planning Appeal Tribunal website at <https://olt.gov.on.ca/tribunals/lpat/about-lpat/>.

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Site plan



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