



PLANNING & DEVELOPMENT

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Official Plan Amendment and Zoning By-law Amendment Report to Municipality of South Huron Council

Re: Official Plan Amendment Application (SHu D09-OPA 14)
Zoning By-law Amendment Application (SHu D14-Z14/2018)

Location: Concession 2, Lot 11, Usborne Ward
Applicant: Monteith Brown Planning Consultants, c/o Jay McGuffin
Owner: J.S. Kints and 1803531 Ontario Ltd.

This report is submitted to South Huron Council for Public Meeting on January 7th, 2019

RECOMMENDATION

That South Huron Council should **refuse to adopt** the Official Plan Amendment and **deny** the Zoning By-law Amendment application as submitted, for the following reasons:

1. Development of a strip of residences in the South Huron prime agricultural area and Recreational designation is not consistent with the Provincial Policy Statement, and does not conform with the Huron County Official Plan or South Huron Official Plan;
2. Approval of this application would direct development away from Exeter and other South Huron Settlement areas, resulting in less efficient use of significant infrastructural investment made in the Municipality as this development is proposed on individual private services;
3. The request for a Special Policy Area is not warranted and these lands and should be protected for Recreational purposes as they have been designated for in the South Huron Official Plan.
4. There was a previous decision of South Huron Council to prohibit residential strip development in this location.

PURPOSE AND EFFECT

The applicant proposes to construct seven (7) future residential dwellings fronting on Morrison Line on the property known as the Exeter Golf Club (Concession 2, Lot 11, Usborne Ward). The seven lots are approximately 0.6 acres each with frontage on Morrison Line ranging from 38 to 42 metres each.

Given that the South Huron Official Plan and the South Huron Zoning By-law do not permit the proposed dwellings, the applicant requests to amend the South Huron Official Plan to

re-designate the lands from Recreational to Recreational Exeter Golf Course Special Policy Area, and rezone the lands from RC3-1 (Recreational Commercial Special Provisions) to AG4-30 (Agricultural Small Holding Special Provisions) to permit residential dwellings, and accessory buildings and structures on individual private septic systems and wells.

This Official Plan Amendment and Zoning By-law amendment propose to amend the Municipality of South Huron Official Plan, and the South Huron Zoning By-law, #69-2018.

HISTORY OF APPLICATION AND PUBLIC MEETING

It should be noted that at the time this original application was submitted, the Township of Usborne Zoning By-law #13-1984 was in effect. A public meeting was advertised for September 17th, 2018, but at the applicant request due to scheduling, this meeting was canceled and a notice of deferral of public meeting was distributed. In November 2018, the applicant sent formal correspondence to the Municipality requesting the application be brought forward for consideration in the New Year (2019). Since the original application was scheduled for Public Meeting on September 17th, 2018 the South Huron Zoning By-law #69-2018 was approved by Council and is now considered full force and effect; the existing Township of Usborne Zoning By-law #13-1984 was repealed. The applicant made modification to the OPA/ZBLA application form seeking a zone change under South Huron Zoning By-law #69-2018, no changes were made to the original Official Plan Amendment request. Formal Notice of Rescheduled Public Meeting was advertised and circulated per the Planning Act advertising a Public Meeting for January 7th, 2019 which outlined the requests being made under this application. This report has been prepared for South Huron Council consideration for the advertised January 7th, 2019 Public Meeting. At this time, South Huron Zoning By-law #69-2018 is considered the applicable Zoning By-law for the Municipality and this application is considered under this document.

BACKGROUND

The following summary is provided to outline the history of this parcel, and also to provide a brief history of a previously submitted application for Official Plan Amendment and Zoning By-law Amendment for the subject lands.

1970: On April 3, 1970, Mr. A. Westcott created 39 “parts” around the periphery of his golf course. This was done without the benefit of any planning process or approval by the Township of Usborne Council. It was done by a method called “checkerboarding”, before part-lot control came into effect later that year.

1980: Mr. Westcott and his agent, Mr. N. Pearson, requested that the Township of Usborne Secondary Plan be amended to designate the 39 parts “Residential”. The Township of Usborne denied the application.

1980-1984: The owner of the golf course pursued various legal challenges at the Ontario Municipal Board and Supreme Court of Ontario. At no point in the process did the zoning change to permit residential development.

2008: Mr. and Mrs. Mason, owners of the Exeter Golf Club property, met with the Planning and Development Department to inquire as to whether the 39 “Parts” could be used as residential building lots. The Planning Department confirmed in writing that new residential development is not permitted by the Rural Golf Course zone.

2013: The Exeter Golf Club was acquired by J.S. Kints Inc. Thirty-two of the 39 parts were merged with the rest of the golf course properties. Seven parts in the “checkerboard” pattern remain along Morrison Line.

2014: September 8, 2014 South Huron Council deferred a decision for application submitted by J.S. Kints to change the Official Plan Designation from Recreational to Agricultural and change the zoning from Rural Golf Course (AG5) to Small Agricultural Holding (AG4). South Huron Council deferred their decision on the file to provide the applicant more time to review the legal history of the property.

Summary of Legal History (included in Staff report to South Huron Council dated September 30, 2014)

On August 28, 2014, staff were contacted by a neighbour who said that, between 1980 and 1984 a group of farmers had gone to court to oppose residential development in this location. On September 1-3, staff searched for this information in our archives for a combined period of four hours. Typically, files of this age have been destroyed. However, one remaining by-law file, By-law #6-1980, did contain some relevant information.

A lawyer's letter in the file outlines the following points: By-law #6-1980 was passed by South Huron Council in order to further prohibit residential development on the subject property. The Supreme Court of Ontario eventually quashed By-law #6-1980 because notice was not provided in a manner deemed acceptable. However, the judge also stated that such a by-law was not required to begin with because the existing by-laws of the municipality already prevented residential development on the subject lands.

An OMB case was also started but eventually dismissed in 1985 because the applicants had abandoned their application.

The application was brought back to South Huron Council through a report dated September 30, 2014. South Huron Council denied the application and request for change to Official Plan designation and Zoning By-law Amendment. The application proceeded to Huron County Council where the request was also denied.

2018: A combined Official Plan Amendment and Zoning By-law Amendment application

was received and circulated for Public Meeting on September 17th, 2018. As noted in the application background above, this Public Meeting was canceled at the request of the applicant. A rescheduled Public Meeting Notice was circulated and advertised a Public Meeting for January 7th, 2018. Since the original public meeting notice, South Huron Zoning By-law #69-2018 has come into full force and effect, and the Township of Usborne Zoning By-law #13-1978 has been repealed. At this time, South Huron Zoning By-law #69-2018 is considered the applicable Zoning By-law for the Municipality of South Huron.

Figure 1: Aerial View of Subject Lands



Figure 2: Panoramic Photo of Subject lands.



APPLICATION REVIEW

Provincial Policy Statement (PPS), 2014

The subject lands are located within the prime agricultural area of the Municipality of South

Huron. Under the PPS, agricultural areas are to be protected for long-term use for agriculture, including agricultural uses, agricultural-related uses and on-farm diversified uses. Residential growth, and residential uses not directly related to agriculture are to be directed to existing serviced areas including identified Settlement Areas. The PPS states that Settlement Areas shall be the focus of growth and development.

The subject lands are designated Recreational. The Provincial Policy Statement recognizes the importance of recreational uses and directs that local municipalities should plan for and maintain a sufficient supply of recreational areas. In 2014 the Municipality underwent an update to the South Huron Official Plan. The Exeter Golf Course lands were included in the Recreational designation historically. The subject lands along Morrison Line were included in the Recreational area, it was the Municipality's intention to retain these areas under the Recreational designation setting aside land for Recreational uses. The seven proposed residential lots are not accessory to the existing golf course use.

Huron County Official Plan

The subject lands are located outside of a designated Settlement Area; under the Huron County Official Plan, growth and development will be directed primarily to Settlement Areas with full Municipal services. Under the Plan, Recreational areas include trailer parks, campgrounds, and golf courses. The Plan states that these areas rely on recreational activity and do not contain a full range of uses, do not permit continuous year-round accommodation, and are not Settlement Areas. The Plan recognizes the importance of recreational areas which provide recreational opportunities for all age groups and abilities.

South Huron Official Plan and General Application Review

The South Huron Official Plan states that Agricultural lands shall be protected (s. 4.4.9). Non-Agricultural development shall be directed to locate in Settlement Areas. The South Huron Official Plan directs growth first to Primary Settlement areas with municipal sewer and water services ensuring the efficient use of servicing investments and infrastructure (s. 7.3). South Huron has invested in water and sewer servicing improvements in Exeter, Crediton and Centralia; this amendment would direct growth away from Settlement Areas and require individual private septic systems and wells for each parcel.

The entire property, including the golf course and the subject lands are designated Recreational. Under the Official Plan, Recreational development includes campgrounds, tennis courts, and recreational commercial uses such as golf courses. South Huron's Recreational designation recognizes and protects the potential for commercial recreational developments. There is no policy support for the development of existing lots of record for residential uses in the Recreational designation. Residential lots are not permitted under the Recreational Designation.

The application submitted proposes a site specific Recreational Exeter Golf Course Special Policy Area. A Special Policy Area can be implemented in certain cases where detailed directions for land use, infrastructure, and natural features etc. are warranted. South Huron currently only has one Special Policy Area which covers the Klondyke Agriculture area, located in the southwest of Stephen Township (along Mollard Line). This Special Policy Area recognizes the Klondyke agricultural area, while recognizing the existence of flood hazard and flood prone areas, and outlines related policies specific to this area.

For the subject application, there is no tie between the proposed residential uses and the golf course or existing recreational use, the provision of seven residential lots in the agricultural area would not meet today's policies, and there is limited justification in the application materials for the requirement of a Special Policy Area. The request made for the Special Policy Area in the planning justification report is "to reflect or convey the intent of the Municipality". The Recreational Official Plan designation applicable at present, which has been maintained on this property historically, and denial of the previous application for Official Plan Amendment and Zoning Amendment, indicates the intent of the Municipality to maintain these lands for Recreational purposes. The department would disagree with the support or need of a Special Policy Area, and the request of same is being asked as a way to recognize a use that is not permitted in the Official Plan or Zoning By-law.

South Huron's Official Plan states that recreational development will be planned to protect prime agricultural land and minimize adverse effects on the agricultural community and economy (s. 10). Minimum Distance Separation (MDS) is a requirement to ensure adequate setbacks from nearby livestock operations. When the 2014 application was submitted, the owner of a nearby livestock barn (north of subject property) had concern with the application, and based on MDS calculations none of the proposed dwellings could satisfy the required MDS setback to this barn. Under this current application, it is understood the nearby barn is no longer being used for livestock so the MDS potential is not existent at present. It is also recognized that the existing golf course use poses a limiting factor for proposed livestock uses in this area. Regardless, this application would still introduce non-farm uses which does not meet the policies or direction for agricultural areas in the Municipality; agricultural areas are to be preserved and protected for agriculture and agricultural related uses.

Potential impact from odour and nuisance to nearby residential uses based on normal farm practices, i.e. spreading of manure on fields, dust etc. should also be considered. Although the golf course is a public use, the occupancy of same is based on hours of operation and customers can leave the facility if surrounding agricultural practices are not favourable. The potential effect on seven permanent residential uses can be less favourable than a use with temporary occupancy. Further, there is evidence through aerial photography that the property to the southeast of this site has made investment in the existing drying/self-storage

elevator operation over the years. Increased residential uses under the current proposal could lead to noise complaints from new residents to an existing permitted use which runs seasonally and all hours of the day. This is further indication why residential development should be directed to existing settlement areas where similar uses are predominant, and that agricultural areas be preserved for agricultural uses.

Municipal staff have noted concern regarding safe drinking water for this development with the preferred solution being an extension to Municipal services, but that pressure and flow are limited in this area, and fire protection would require upgrades to existing services. It was noted sanitary services are not available in the vicinity of the development. Traffic concerns relate to multiple proposed driveways at this location, and that a speed reduction zone in the vicinity of the proposed development would likely be required.

There were supporting studies included with the application materials that propose each lot be serviced by an individual septic system and well. Although the study indicates that servicing is achievable on these properties, the lot sizes existing are small compared to current day standard and would cause concern for creation if they were proposed today. Further, in the 2014 application, it was noted that outstanding technical details would need to be further addressed if the application were to be approved, the same considerations are applicable to the current proposal. Stormwater management and drainage, well and water supply and safety, and individual sewage systems would need to be reviewed and sized appropriately for the development and subject lands. Access and safety measures would need to be reviewed regarding obtaining safe access to Morrison Line, and potential costs with culvert maintenance and replacement would need to be reviewed.

South Huron Zoning By-law 69-2018

The subject lands are zoned in their entirety as Recreational Commercial Special Provisions (RC3-1) in the South Huron Zoning By-law. The RC3-1 zone permits a golf course, an (1/one) accessory dwelling and limited agricultural uses. The RC3-1 zone does not permit detached dwellings as a main permitted use.

The applicant proposes to rezone to an Agricultural Small Holding Zone with special provisions (AG4-30) to permit dwellings as a main permitted use. Standard zone provisions in the AG4 zone are proposed by the applicant. As noted previously there is no connection to the use existing on the west of the property, nor provisions under the Recreational designation that would warrant development of seven residential lots in this area through a site specific zoning.

Figure 4: Excerpt of South Huron Zoning By-law #69-2018



STAFF AND AGENCY COMMENTS

South Huron staff were circulated on the application and proposed zoning amendment. Applicable commenting agencies as required for the proposed application, and subject lands were also circulated notice. Public were notified under the requirements of the Planning Act. At the time of the original notice of Public Meeting one verbal comment was received from the neighbour to the east requesting clarification of the application; general comments were made regarding current uses of their property in relation to this proposal. Formal written comments were received from a neighbor which have been included as an Appendix to this report for information. Also during the original notice of Public Meeting circulation, an inquiry was received from Ministry of Municipal Affairs and Housing asking for additional clarification on the application and requests within. MMAH noted they had no further comments upon review of the relevant Official Plan policies and understanding the Planning Recommendation being made.

This report has been prepared in advance of the advertised rescheduled public meeting. I will be in attendance at the rescheduled public meeting to answer questions from Council and the public on this Official Plan and Zoning By-law amendment application.

Sincerely,

“original signed by”

Sarah Smith
Planner

APPENDIX 1: Letter from Neighbour

Sarah Smith

From: John Miner <miner.js@gmail.com>
Sent: September 11, 2018 5:07 PM
To: Sarah Smith
Subject: Golf course zoning - John and Laurel Miner
Attachments: Golf course zoning - John and Laurel Miner.docx

Sarah Smith, planner, Huron County

Please find attached our submission re: the proposal to change the zoning and official plan to allow residential development adjacent to the Exeter Golf Course. Let me know if you receive this.

Thank you,

John and Laurel Miner

Re: Official Plan Amendment File #SHu OPA14
Zoning By-Law Amendment File #SHu D14-Z14/2018

After reviewing the application to permit construction of seven single-family homes on a strip of land across the road from our farm operation, we feel it is necessary to clarify our position.

We oppose the development that would in essence create a new hamlet in a prime agricultural area, bringing with it the potential for increased land use conflict and restrictions on farm activities.

Our farm has traditionally been a livestock operation and we currently cash crop the land with our son-in-law. Although we demolished the cattle and sheep barn a few years ago, given the precarious nature of agricultural commodity prices, we wish to retain the option of returning to livestock production, if not for ourselves, for the next generations.

We support the wisdom in the existing South Huron Official Plan that specifies non-farm uses should be directed to locate in urban designated areas to minimize conflicts in the agricultural areas. Similarly, the County of Huron Official Plan states the goal of the community is to give agriculture priority over other uses in agriculture areas. "Development should be directed to urban areas, unless it is an agricultural related use."

Fortunately, there are estate lots available for sale in an attractive area inside Exeter.

Ontario's Provincial Policy Statement, adopted in 2014, stipulates prime agricultural areas shall be protected for long-term use. The statement prohibits creation of new lots in prime agricultural areas except for agricultural uses, agriculture-related use, and for a residence that is surplus to a farming operation as a result of farm consolidation.

We note that the seven lots in question, as addressed by the municipality's planner when a development application was rejected by council four years ago, have never been zoned to allow residential development. Creation of the lots, according to the municipal planner's presentation at the time, was done without benefit of any planning process or approval by the Township of Usborne council.

We also note the land being proposed for residential development, although attached to the golf course, has remained in agricultural production. Given that Ontario lost 20 percent of its farmland to development between 1976 and 2016, we urge council to continue to directly protect farmland and prevent the fragmentation of rural areas.

Thank you,
John and Laurel Miner
40478 Kirkton Road, RR 1
Centralia, Ontario N0M 1K0

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John Miner