

February 5, 2019

via email

Municipality of South Huron
322 Main Street South
Box 759
Exeter, Ontario
N0M 1S6

Our file: 13-2820

Attention: **Dan Best**
 Chief Administrative Officer

Reference: Proposed Residential Development: (Jeff Kints)
 Part Lot 11, Concession 2, Usborne Ward, Municipality of South Huron, ON
 Official Plan Amendment File # SHu OPA 14 and Zoning By-Law Amendment
 File # Shu D14-Z14/2018

Further to our teleconference call of January 31, 2019, we wish to take this opportunity to thank the Municipality for arranging the call with County of Huron Planning staff and our client in an attempt to find a resolution to the opposition to the above-noted official plan and zoning by-law amendments. Based on a review of the applications with the County, it would appear that any opportunities for resolution of the matter have reached an impasse.

At the request of Municipal staff, we have explored the scenario of reducing the number of single detached dwellings proposed to be permitted from seven to five by consolidating the two most southerly lots and the two most northerly lots. This reduction would have come notwithstanding our position (and as previously demonstrated) that the seven existing lots, each having an area of at least 2,322.5 square metres (0.57 acres), have more than sufficient area to accommodate a suitably sized building envelope, on-site sanitary waste disposal systems, on-site water supply and accessory buildings.

In response to the proposed reduction in the number of lots, the County has indicated that five lots would still be too many. When we inquired as to what the County believed was the test or criteria to be applied in determining the correct or optimal number of lots, the County was unable to provide us with any guiding information.

The County has questioned as to the specific reasons for proposing a 'Special Policy Area' designation to the subject lands. We re-iterate that such a designation would effectively identify the subject lands as comprising a unique situation, that is, providing for limited residential development confined to the existing lots of record only and subject to any additional development controls deemed necessary by the Municipality. As previously noted, such a designation would not be the first such application or approach, and is used in other rural municipal jurisdictions where specific development proposals do not readily "fit" within the rigid planning policy environment **but would not otherwise offend or be inconsistent with good planning principles.**

Policies for a 'Special Policy Area' designation are typically applied in 'site-specific' instances where the application of existing OP policies would not accurately reflect or convey the intent of the Municipality with respect to the future use of the land. A 'Special Policy Area' designation would be considered in situations where the change in land use is site specific and is appropriate given the mix of uses in the area. It would also be appropriate in instances where the change in land use is site specific and the lands are located in an area where the Municipality wishes to maintain an existing land use designation while allowing for a site-specific use.

Through its last Municipal Official Plan, the County removed the subject lands from the agricultural land use supply and designated the lands for non-agricultural purposes. Therefore, the application of a 'Special Policy Area' is considered appropriate under the circumstances where policies are required to restrict the range of permitted uses, or to restrict the scale and density of development normally permitted in a particular designation. The proposed official plan and zoning by-law amendments serve only to recognize the unique situation of a featured non-agricultural designation **and existing lots of record on which, ironically, development would not be precluded if such lots were situated in a designated 'Agricultural' area.**

With respect to the recently adopted new Comprehensive Zoning By-law, the Recreational Commercial (RC3-1) zone allows any number of sensitive land uses to be located on the existing lots of record and, as such, the use of the lots for residential purposes would serve no greater impact to the broader agricultural community. We also note that, unlike the applications filed in 2014, a Minimum Distance Separation (MDS) impact no longer exists with the termination and removal of the previously potentially impeding livestock facility.

As you are aware, John and Laurel Miner (email dated September 11, 2018) set out a number of objections to the proposed official plan and zoning by-law amendment as reproduced below. Our response to each is noted in italics as follows:

"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."

Hamlets are treated as special entities by the Provincial Policy Statement, the County of Huron Official Plan and the Municipality of South Huron Official Plan. The seven existing lots of record are not recognized as a "hamlet" nor have we ever suggested that they receive recognition as a "hamlet". Again, any restriction on farm activities already exists given the presence of the golf course, club house, restaurant and existing residences on abutting properties.

"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."

The option of returning to livestock production has not been removed provided the Miner's could satisfy the MDS II requirements for any new livestock building or structures erected. Such buildings would be first and foremost constrained by the presence of an existing dwelling directly opposite the Miner farm on the north side of Kirkton Road.

"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."

These policies are typically put into place to specifically control and regulate the creation of new residential lots in agricultural areas, and prevent incompatible uses from being established. As previously noted, the proposed development involves existing lots of record which are already situated in a non-agricultural land use designation.

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

Similarly, the subject lands represent a unique and attractive area for residential development abutting an established golf course, providing additional housing opportunities for those wishing an alternative to residing in an urban setting.

"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."

The lots are not being created and have been in legal existence since the early 1970's. The subject lands are not prime agricultural lands and are designated for non-agricultural uses

"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 Osborne council."

Creation of the subject lots, as previously noted, took place legally prior to the advent of subdivision control in the Province. It was a process that took place in many areas of Ontario at a time when a framework for planning was still very much in its infancy. Indeed, over time, many of these existing lots were ultimately zoned to permit some form of development.

"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."

The subject lands are already fragmented and have been fragmented since the lots were first created in the early 1970's. Irrespective of some limited agricultural use, the lands do not offer a valuable or practical utility for sustained farm use and are not currently designated or zoned for agricultural purposes in the Official Plan and Zoning By-law. We would submit that the County felt no need to protect any "farmland" in this instance when it changed the designation and zoning of the lands for recreational purposes. The lands are currently surplus to any recreational needs associated with the abutting golf course.

Based on further review of this matter with our client, and as a result of our teleconference call and the position of County planning staff, we respectfully request that Council proceed with the adoption of Mr. Kints' applications as submitted, and that the Official Plan amendment be forwarded to the County of Huron for approval.

If you have any questions regarding this matter or require any additional information, please do not hesitate to contact myself or Dan Smith at our offices in London.

Yours very truly,

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