

Consent Application Report – File # B46/2017

Owner: Brian Miller	Date: August 21, 2017
Applicant: Brian Miller	
Property Address: 41167 Line 17	
Property Description: Conc Northeast BDY Lot 24, Lot 25, Usborne, Municipality of South Huron	

Recommendation:

That provisional consent be:

- granted with conditions (attached)
- deferred (for ...)
- √ denied (referred to the Committee of the Whole, for a decision)

Purpose:

- enlarge abutting lot
- create new lot
- √ surplus farm dwelling
- right-of-way / easement
- other:

Area Severed: 1.0 ha (2.47 acres)	Official Plan Designation: Agriculture	Zoning: AG1
Area Retained: 52 ha (128.49 acres)	Official Plan Designation: Agriculture and Watercourse	Zoning: AG1 and NE1

Review: This application:

- Is consistent with the Provincial Policy Statement (s. 3(5) Planning Act);
- √ Does not require a plan of subdivision for the proper and orderly development of the municipality (s. 53(1) Planning Act);
- Conforms with section 51(24) of the Planning Act;
- Conforms with the Huron County Official Plan;
- Conforms with the South Huron Official Plan;
- Complies with the municipal Zoning By-law (or will comply subject to a standard condition of rezoning or minor variance);
- n/a Has been recommended for approval by the local municipality; and
- Has no unresolved objections/concerns raised (to date) from agencies or the public.

(Applications that do not meet all of the foregoing criteria will be referred to the Committee of the Whole for a decision)

Agency/Public Comments:

	Not Received or N/A	No Concerns	Comments/Conditions
Conservation Authority (ABCA)		√	
Neighbours/Public	None received		6 Letters of support submitted as part of application.
Huron County Highways	N/A		

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Huron County Health Unit		✓	See conditions.
South Huron Staff			See conditions.

Figure 1: Aerial of Subject Property. Retained Parcel identified in Yellow. Severed Parcel identified in Red.



Figure 2: Aerial of land to be severed



Purpose:

The applicant is seeking the severance of a portion of an existing agricultural farm parcel in the Township of Osborne for residential purposes; the intent will be for a new residential dwelling on the severed parcel.

The subject lands include agricultural farmland, an old barn and shed. It is understood a residential farmhouse dwelling was located on this parcel of land approximately 12 years ago but was demolished and the foundation and related services were removed from the site.

The subject lands are designated Agriculture in the Huron County Official Plan and Agriculture and Watercourse in the South Huron Official Plan. This request will be reviewed under policies for land division in Prime Agricultural areas through review of applicable policies in the Provincial Policy Statement, Huron County Official Plan and South Huron Official Plan.

Figure 3 and 4: Demolished Dwelling location.



Figure 5: Existing Agricultural Accessory Structures on land proposed to be severed.



Provincial Policy Statement

Under the Provincial Policy Statement prime agricultural areas are to be protected for long-term use for agriculture. In the agricultural areas all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected. Lot creation in prime agricultural areas is discouraged and may only be permitted for agricultural uses, agricultural related uses, and where a residence is considered surplus to a farming operation as a result of farm consolidation per Policy 2.3.4.1(c). The creation of new residential lots in prime agricultural areas shall not be permitted, except in accordance with policy 2.3.4.1(c) where there is an existing residence that is considered surplus to a farming operation. In regard to the subject consent application; there is no residential dwelling present on the subject lands so this application does not meet the criteria for surplus dwelling severance.

Huron County Official Plan

Under the Huron County Official Plan Agricultural lands are recognized as a prime resource in Huron County and the promotion and protection of same is a prime policy and objective in Huron County. Lot creation in prime agricultural areas is discouraged, and will only be permitted for agricultural uses, minor lot boundary adjustments, infrastructure or public service utilities, or where an existing dwelling is considered surplus to a farm operator through farm consolidation. Local Municipalities may choose to develop policies for severance of an existing dwelling considered surplus to a farm operator through farm consolidation, and shall meet or exceed the following criteria:

- a) The residence must be a minimum of 15 years old or has immediately replaced one of a series of habitable residences which were built a minimum of 15 years ago or replaces a house accidentally destroyed by fire or natural disaster.

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- b) The residence is habitable, as determined by the Chief Building Official, and is intended to be used as a primary residence.
- c) A new residence is prohibited (through zoning) on any remnant parcel of farmland created by a surplus residence severance.
- d) The area of farmland attached to the surplus house is kept to a minimum size needed for residential purposes, taking into consideration water and sewage services and environmental and topographic features.
- e) Minimum Distance Separation (MDS) formula requirements are met to the surplus house if barn(s) exist on the retained farmlands. MDS does not apply to existing barns on separately titled lots.
- f) There has been no previous separation of land for residential purposes from the farm property as it existed on June 28, 1973, other than in a settlement area.
- g) The retained lands are a minimum of 19 hectares unless merged with an abutting farm. h) Where the residence is within 300 metres of an existing aggregate operation or aggregate deposit, an assessment of potential impacts may be required (See Section 5.3.10)

On review of the proposal, there is no dwelling present (and evidence of same has been removed from the site) to meet the requirements for a dwelling considered surplus through farm consolidation. The subject consent in theory seeks a vacant agricultural parcel for residential purposes which is not supported through Huron County Official Plan policies.

South Huron Official Plan Policies

The subject lands are designated Agriculture and Watercourse in the South Huron Official Plan. The area proposed for severance is designated Agriculture. Under the South Huron Official Plan Land Division Policies in Section 13, clear direction outlines severances permitted in the Agricultural area:

1. Where the land being conveyed or retained is for agricultural purposes, a consent may be granted where both the severed and retained parcels respect the need for long term agricultural flexibility. In this case minimum lot size of 38 hectares is required for severed and retained and agriculture must be the intended use of the lands.
2. The division of a 60 hectare farm parcel into two farm parcels may be permitted. Both the severed and retained parcels will have a minimum size of 20ha.
3. Agriculture-related commercial uses or agricultural-related industrial uses.
4. The South Huron Official Plan states that “consents will not be allowed which have the effect of creating a use not directly related to agriculture. Non-farm rural residential lots will not be allowed.

Under Policy Section 13.3.1.1 the South Huron Official Plan does permit severances of surplus dwellings where a dwelling is acquired through farm consolidation and is surplus to the needs of the farm operation. An existing dwelling may be severed subject to meeting all of the following criteria. This application is reviewed per the same policies.

South Huron Surplus Residence Criteria	Subject Application Compliance with Criteria
<i>House is surplus to a farm operator</i>	No. There is no residential dwelling on this parcel of land so there is no house to be considered surplus.

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	There is no residence so this policy is not met .
<i>House is at least 15 years old or replaces a house that was 15 years old.</i>	No. There is no house on the subject lands. A farmhouse did exist, but the applicant has noted the house, foundation and related services were demolished 12 years ago. There is no residence so this policy is not met .
<i>The residence is habitable and intended to be used as a residence.</i>	No. There is no residence so this policy is not met .
<i>The area of farmland is kept to a minimum needed for residential purposes.</i>	The proposed severed parcel includes approximately 1ha of agricultural land but includes no existing residential dwelling. There is no residence so this policy is not met .
<i>MDS requirements are met where barns on neighbouring farms are ≥ 100 Nutrient Units</i>	MDS data sheets were submitted for this consent. MDS requirements to nearby livestock operations would be met for the proposed severed parcel. Therefore this policy is met.
<i>There has been no previous separation of land for residential purposes as it existed on June 28, 1973.</i>	No Therefore this policy would be met.
<i>The retained lands are a minimum of 19 hectares unless merged with an abutting farm property.</i>	The proposed retained lands are approximately 52 hectares. Therefore this policy would be met.
<i>Where residence is within 300m of an aggregate operation or deposit an assessment of potential impact may be required.</i>	The residence is not within 300m of an aggregate operation or deposit. Therefore this policy would be met.

In review of the above criteria set out in the South Huron Official Plan the subject proposal does not meet all policies required to seek division of land under the Surplus Dwelling Residential policies. In the view of the Official Plan there is no residence on the subject lands, nor has the demolished residence been replaced by a new residence. Therefore the policy for surplus dwelling severance are not met and the consent is not in compliance with South Huron Official Plan policies. Further, the proposed severance also contemplates the severance of a vacant parcel intended for residential purposes which is not permitted under the South Huron Official Plan, Huron County Official Plan or Provincial Policy statement.

Summary:

The proposed consent is not consistent with applicable planning policy. It is recommended that this severance application **be refused** as it does not meet the requirements for severance of land in the agricultural area in the Provincial Policy Statement, Huron County Official Plan or South Huron Official Plan.

Sincerely,

Original signed by
Sarah Smith, B ES

August 21, 2017
Date

Date of Site Inspection: August 4, 2017

Should South Huron Council choose to recommend this application for approval by the County of Huron, the conditions below would be recommended:

Expiry Period

1. Conditions imposed must be met within one year of the date of notice of decision, as required by Section 53(41) of the Planning Act, RSO 1990, as amended. If conditions are not fulfilled as prescribed within one year, the application shall be deemed to be refused. Provided the conditions are fulfilled within one year, the application is valid for two years from the date of decision.

Municipal Requirements

2. Any and all monies owed to the Municipality must be paid in full, which may include but are not limited to servicing connections, cash-in-lieu of park dedication, property maintenance, water and wastewater charges, garbage and recycling charges, property taxes, compliance with zoning by-law provisions for structures etc.
3. 911 addressing for the subject lands be dealt with to the satisfaction of the Municipality.
4. The sum of \$500.00 be paid to the Municipality as cash-in-lieu of parkland.

Survey/Reference Plan or Registerable Description

5. Provide to the satisfaction of the County and the Municipality:
 - a) a survey showing the lot lines of the severed parcel and the location of any buildings thereon, and
 - b) a reference plan based on the approved survey;

Zoning

6. Where a violation of any municipal zoning by-law is evident, the appropriate minor variance or rezoning be obtained to the satisfaction of the Municipality.
7. The severed land be rezoned to the appropriate zone, e.g., Small Agricultural Holding (AG4), to the satisfaction of the Municipality.
8. The retained land be rezoned to the appropriate zone, e.g., General Agriculture – Special Exception (AG1-Special) to prohibit a residence, to the satisfaction of the Municipality.

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Storm Water and Drainage

9. Any tile drains crossing between the severed and retained parcel be cut and re-routed to the satisfaction of the Municipality of South Huron.

Note:

10. Other development and/or servicing requirements as deemed necessary to service or develop the subject lands are the sole responsibility of the applicant (this may include but not be limited to septic, water, access, building permit etc.).