



## Staff Report

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**Report To: Council Meeting**

**From: Bryan Pearce, Planner**

**Date: 2021-06-10**

**Subject: Severance Application E37-21 –22034 Downie Line (Planning Report 2021-19)**

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### **Recommendation:**

That West Elgin Council hereby receives the report from Bryan Pearce regarding the severance application, File E37-21 – Comments to County of Elgin (Planning Report 2021-19);

And that West Elgin Council hereby recommends approval to the Land Division Committee of the County of Elgin for the severance application, File E37-21, subject to the Lower-Tier Municipal conditions in Appendix Two of this report;

And further that West Elgin Council directs Administration to provide this report as Municipal comments to the County of Elgin.

### **Purpose:**

The purpose of this Report is to provide Council with recommendations related to authorizing municipal comments to the County of Elgin regarding County of Elgin Severance Application E37-21, as Elgin County is the planning approval authority for severances.

A severance application was submitted to the County of Elgin by the Owners, Ron and Fran Downie. The purpose of the application is to facilitate the lot creation of a surplus farm dwelling that is part of a farm consolidation within our agricultural area, just northwest of the community of Rodney on Downie Line.

### **Background:**

The Property Owners are requesting the severance of a parcel of land, legally described as East Half and Southwest Quarter Lot 5, Concession Gore; Western Division; north of Downie Line through to Hoskins Line, approximately 800 metres west of Furnival Road, municipally known as 22034 Downie Line, as shown in Figure One on the next page.

The subject lands are approximately 30.5 hectares (75 acres) associated with 2 parcels assessment roll numbers, being 25 acres and 50 acres respectively. In conversations with the Owner, he noted that they haven't severed the lands since having the ownership since the 1980's. Therefore, since the two parcels are in the same name they are merged together on title for one farm land holding, as far as the Municipality and Owner are aware and there is no reference plan in the legal description of the parcels, giving further indication.



The proposed severed parcel would have road access through the existing driveway, with the existing dwelling connected to municipal water and private individual on-site septic system, as well as hydro, gas and phone. The farm would continue to obtain access at the far east end of the retained parcel on Downie Line and there is no road side ditch present to limit entrance access.

The proposed severed parcel would have an area of 6689 square metres (1.65 acres), with a lot frontage of 45.72 metres (150 feet) onto Downie Line, by a depth of 146.3 metres (480 feet), containing an existing dwelling, accessory use detached shed and barn.

The proposed vacant retained parcel would have an area of 29.7 hectares (73.35 acres), with a lot frontage of 561.2 metres (1841 feet) onto Downie Line, with an irregular depth.

This is further depicted in the severance sketches attached to this report, as Appendix One.

The Elgin County Application for Consent states the farm owner has declared the residence to be surplus to the needs of their farming operation, with other farm land holdings and a principal residence elsewhere in the Municipality of West Elgin, to comprise of their farming operation.

### **Financial Implications:**

None. Application fees were collected in accordance with the Municipality's Fees and Charges By-law, as amended time to time.

**Policies/Legislation:**

Planning authorities must have regard to matters of Provincial interest, the criteria of the *Planning Act*, be consistent with the Provincial Policy Statement (PPS) and does not conflict with Provincial Plans. Within the Municipality of West Elgin, they must also make decisions that conform to the County of Elgin Official Plan (CEOP) and Municipality of West Elgin Official Plan (OP) and make decisions that represent good land use planning.

With regard to this proposal involving severances, the Planning Authority is the County of Elgin Land Division Committee, wherein the Municipality provides agency comments to the County of Elgin as part of their decision-making process.

**PPS:**

Lot creation in agricultural areas is permitted for a residence surplus to a farming operation because of farm consolidation, provided that the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and the planning authority created by the severance, in accordance with Section 2.3.4.1(c) of the PPS. New land uses, including the creation of lots and new or expanding livestock facilities shall comply with the minimum distance separation formulae, in accordance with Section 2.3.3.3 of the PPS. The severed parcel is limited in area to accommodate the existing infrastructure associated with the existing dwelling; and the Applicant notes that there are no livestock barns within 750 metres of the subject lands, as concurred by Planning Staff, but MDS-1 is exempt on the surrounding lands as per Guideline 9 of the MDS Guidelines, as there is no specific policies contained in the OP requiring this aspect and there are no existing livestock facilities on the retained parcel.

The northeastern and eastern boundary portion of the proposed retained parcel is within the 120 metre adjacent lands to the significant woodland, as well as the significant woodlands on the property and property to the east. Section 2.1 of the PPS polices states that development and site alteration in significant woodlands or on adjacent lands is not permitted unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions, generally through an Environmental Impact Study (EIS). Being that no development is proposed on the retained parcel at this time, no EIS would be required.

This proposal appears to be consistent with the PPS.

**CEOP:**

The subject lands are designated Agricultural Area on Schedule 'A' Land Use in the CEOP. A portion of the proposed retained parcel is within Woodlands as indicated on Appendix #1 Natural Heritage Features and Areas in the CEOP.

Section E1.2.3.4 b) of the CEOP permits the creation of new lots provided the local Official Plan supports their creation and if the lot is to be created to accommodate a habitable residence that

has become surplus to a farming operation as a result of a farm consolidation provided that the development of a new residential use is prohibited on any retained parcel of farmland created by the consent to sever. The residence to be severed is habitable and is surplus to the owner's farming operations. The proposed severed parcel meets the MDS I setbacks as there are no barns capable of housing livestock. The residence is connected to the municipal water and private individual on-site septic system.

Section D1.2 Natural Heritage contains policies pertaining to significant woodlands. Section D1.2.6 states development and site alteration are not permitted in a significant woodland or on adjacent lands unless an EIS has been completed, demonstrating there will be no negative impact to the natural heritage features. Lastly, Section D1.2.7 Adjacent Lands states development and site alteration within 120 metres of a significant woodland shall not proceed unless an EIS. has been completed, demonstrating there will be no negative impact to the natural heritage features. Being that no development is proposed on this portion of the retained parcel at this time, no EIS would be required.

Therefore, this proposal appears to conform to the CEOP.

**OP:**

The subject lands are designated as Agricultural, as shown on Rural Area Land Use and Transportation Schedule 'E' of the OP.

The agricultural land use policies, under Section 6.2 of the OP, permit farm dwelling on the farm operation.

Section 6.2.9 policies of the OP, state that the creation of a lot for the purposes of disposing of a dwelling considered surplus as a result of farm consolidation, being the acquisition of additional farm parcels to be operated as one farm operation, shall be considered in accordance with the following:

- a) The dwelling considered surplus has been in existence for at least 10 years;
- b) The dwelling is structurally sound and suitable, or potentially made suitable, for human occupancy;
- c) No new or additional dwelling is permitted in the future on the remnant parcel which shall be ensured through an amendment to the Zoning By-law;
- d) Compliance with MDS I with respect to any livestock building, structure, or manure storage facility on the remnant parcel;
- e) Minimizing the loss of productive farmland; and
- f) Deteriorated derelict abandoned farm buildings (including farm buildings and structures with limited future use potential) are demolished and the lands rehabilitated.

Administration advises that:

- The proposed severance demonstrates that the residence is surplus to the owners' farming operation and the dwelling has been in existence greater than ten years and is structurally sound and suitable for human occupation;
- The remnant parcel would be rezoned to prohibit a dwelling;
- There are no livestock operations affecting the proposal, with respect to MDS I;

- The proposed severed parcel is minimizing the loss of the productive farmlands to the best of its abilities with existing site features; and
- There are no farm buildings that area deteriorated, derelict or abandoned for consideration of removals.

Section 3.3.7 of the OP states that development or site alteration shall only be permitted in Woodlands unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated there will be no negative impact on the natural heritage feature or on its ecological function. Being that no development is proposed on this portion of the retained parcel at this time, no EIS would be required.

Lot creation polices under Section 10.4.1 of the OP, allows for severance (consent) application to be the method utilized since no infrastructure is warranted with this proposed development and is in compliance with the criteria of Section 51(24) of the *Planning Act*.

Therefore, this proposal appears to conform to the OP.

### **Municipality of West Elgin Comprehensive Zoning By-law 2015-36 (ZBL):**

The subject lands are zoned General Agricultural (A1) on Schedule A, Map 36 of the ZBL, as depicted in Figure Two to the right.

Permitted uses within the General Agricultural (A1) Zone include single unit dwelling. The minimum lot area and lot frontage requirements of the General Agricultural (A1) Zone are 20.2 hectares and 300 metres respectively.

The proposed severed parcel area is approximately 6689 square metres (1.65 acres), with a lot frontage of 45.72 metres (150 feet); and would need to be rezoned to implement the proposed lot creation, by rezoning it to the Restricted Agricultural (A3) Zone, as a condition of approval. The Restricted Agricultural (A3) Zone has a minimum lot area of 4000 square metres and a minimum lot frontage of 30 metres respectively.

The proposed retained parcel would need to be rezoned to the Agricultural (A2) Zone in order to prohibit a single unit dwelling on the lands, as a condition of approval.



Therefore, it would appear that the proposal would comply with the ZBL, provided a Zoning By-law Amendment was obtained for the severed and retain parcels, that can be addressed through a condition of the consent applications.

**Interdepartmental Comments:**

The severance applications were circulated to municipal staff for comment. The following comments were received:

Drainage:

Drainage Department noted the following:

- The subject lands is within the Head Drain municipal drainage area.

Planning Staff notes that this can be addressed as condition of approval for reassessment processes.

Utilities:

Utilities Department noted the following:

- The water service that comes in the front yard off Downie Line, so no issues of concern.

At the time of submission of this report, no other comments or concerns were received from Administration.

**Additional Comments:**

Administration recommends that as a condition of approval of the consent that the Applicant meet all the requirements, financial and otherwise of the Municipality, to the satisfaction and clearance of the Municipality.

Further, Administration recommends that as a condition of approval of the consent that the Applicant provides a description of the lands to be severed which can be registered in the Land Registry Office, to the satisfaction and clearance of the Municipality.

Further, Administration recommends that as a condition of approval of the consent that the Applicant's Solicitor provides an undertaking to the Municipality, to provide a copy of the registered deed for the severed parcel once the transaction has occurred to the Municipality.

Further, Administration recommends that as a condition of approval of the consent that the Applicant successfully apply to the Municipality for a Zoning By-law Amendment for the severed parcel and retained parcel and having such rezoning of the Zoning By-law come into full force and effect pursuant to the Planning Act, to the satisfaction and clearance of the Municipality. This is further detailed above in the review of the ZBL.

Further, Administration recommends that as a condition of approval of the consent that the Applicant have a drainage reapportionment completed pursuant to the *Drainage Act*, to the satisfaction and clearance of the Municipality. This is further detailed above in the drainage comments.

Further, Administration recommends that as a condition of approval of the consent that the Applicant have a septic system assessment be completed by a qualified individual, on the proposed severed parcel to ensure that the lands are suitable for a privately owned and operated septic system, to the satisfaction and clearance of the Municipality. The Applicant has submitted an assessment with the application from Don McColl of McColl Ltd, dated April 13, 2021. The Assessment noted that the system is working fine but should be noted that if any changes are made to the size of the house or fixture count, a new septic system may be required as the tank and tile bed would not meet today's standards.

Further, Administration recommends that as a condition of approval of the consent that prior the final approval of the County, the County is advised in writing by the Municipality how the above-noted conditions have been satisfied. This will require the Applicant to submit to the Municipality a request for clearance letter, providing documentation on how the above noted conditions have been fulfilled, for the Municipality to provide it to the County of Elgin, as the approval authority.

Further, Administration recommends that as a condition of approval of the consent that all conditions noted above shall be fulfilled within one year of the Notice of Decision, so that the County of Elgin is authorized to issue the Certificate of Consent pursuant to Section 53(42) of the *Planning Act*.

**Summary:**

Therefore, it is Planning Staff's opinion that the proposed surplus farm dwelling lot creation consent, would appear to be consistent with the PPS, conforms to the CEOP and conforms to the OP, complies with the ZBL (subject to relief); and that Council recommends to the County of Elgin that the consent be approved, subject to the lower-tier municipal conditions listed in this report.

The County of Elgin, as the Planning Approval Authority, will have to review the application accordingly against the planning documents (PPS, CEOP, OP and ZBL) and obtain comments from the other agencies and members of the public through the public consultation process, as part of their decision-making on the planning application.

Respectfully Submitted,

Bryan Pearce, HBA, CPT, MCIP, RPP  
Planner  
Municipality of West Elgin

### Report Approval Details

Document Title:	Severance Application E37-21 - Comments to Elgin County - 2021-19-Planning.docx
Attachments:	- Planning Report 2021-19 - Appendix One - Consent Sketch E37-21.pdf - Planning Report 2021-19 - Appendix Two - Severance Application E37-21 Conditions.pdf
Final Approval Date:	Jun 8, 2021

This report and all of its attachments were approved and signed as outlined below:

Jana Nethercott