



Committee Report

To: Councillor Steve Hammell, Chair and
Members of the Planning and Development Committee

From: Claire Dodds
Director of Planning and Development

Date: May 18, 2023

Re: County Official Plan Amendment Application C-2022-015 (Gamble)

Staff Recommendation:

That County Official Plan Amendment C-2022-015 for lands describes as CON2 PT LOT 22 RP 3R535 PT; PART 1 Municipality of Kincardine (Bruce Township) to permit a second Additional Residential unit be refused for the following reason: The use does not meet the Minimum Distance Separation (MDS I) requirement to the livestock facility on the adjacent farm property.

Summary:

The subject land is 541 Concession 2 in Bruce Township and is a Non-Farm Lot. The Application is seeking to permit two existing additional dwelling units; one within the principal dwelling and another in an ancillary building. The County Official Plan permits one additional residential unit in the 'Agriculture' designation. The units were established without planning approvals or building permits.

A zoning by-law amendment is also required. The zoning public meeting was cancelled on May 8th due to audio issues and will be rescheduled to June 12, 2023.

Alignment with Guiding Principles:



GOOD GROWTH

To put growth in the right locations with the right services



AGRICULTURE

To support our key economies, including supporting a thriving agriculture community



CONNECTING

To improve our ability to move people, goods, and information between communities



HOMES

To increase the supply and mix of homes



BUSINESS

To create opportunities for a diversity of businesses, jobs, and employers



COMMUNITIES

To create wellbeing through access to healthy complete communities







HERITAGE

To identify and manage our cultural heritage resources



NATURAL LEGACY

To manage natural resources wisely for future generations

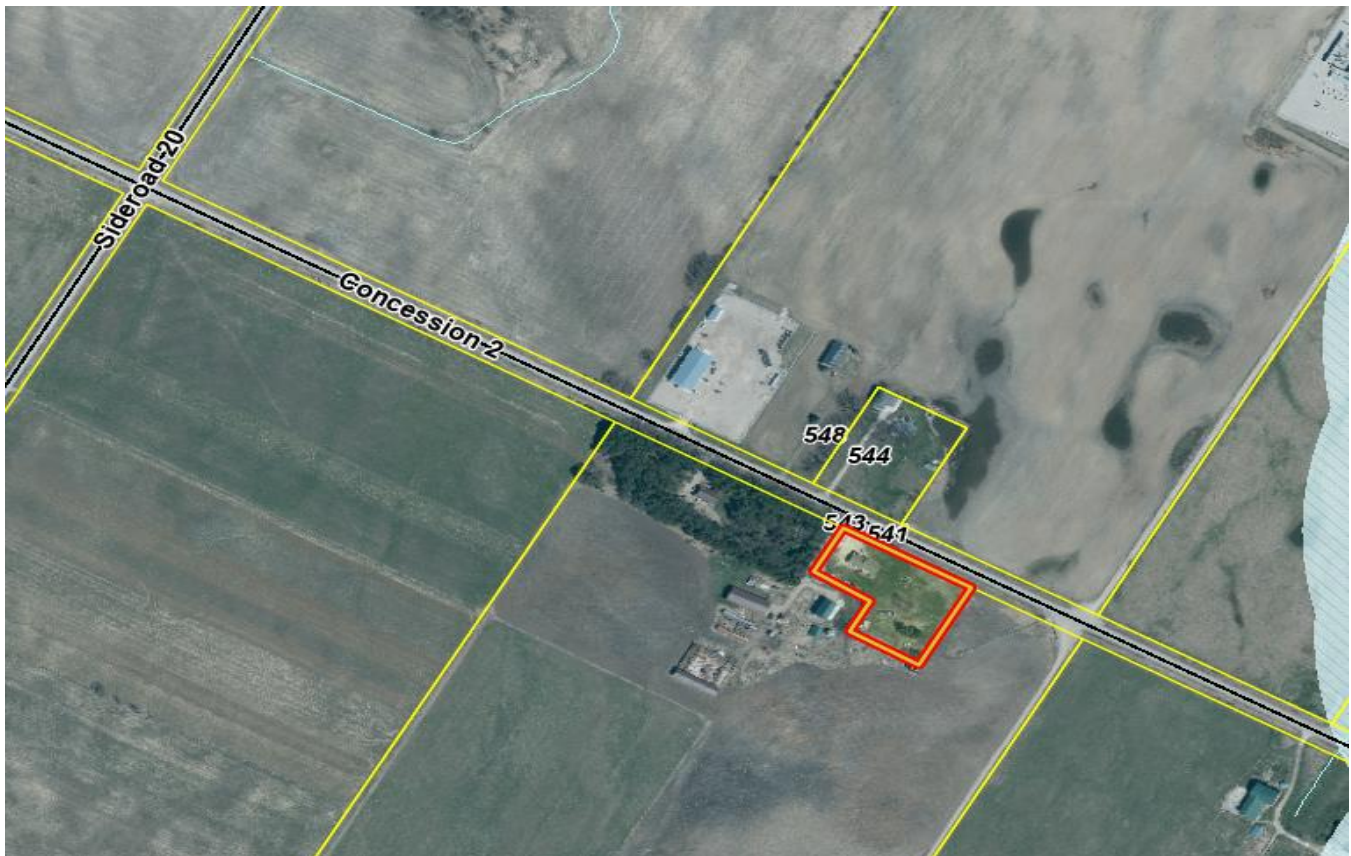
-  Not applicable
-  Not aligned
-  Aligned
-  Strongly aligned

The Homes Guiding Principle is focused on increasing supply and mix of homes. The County Plan supports the creation of rooming, boarding and lodging houses in appropriate locations and has provided limited opportunity for an additional residential unit on a lot in the Agricultural area. The Additional Dwelling Unit (ADU) in the main dwelling aligns with the Homes guiding principle.

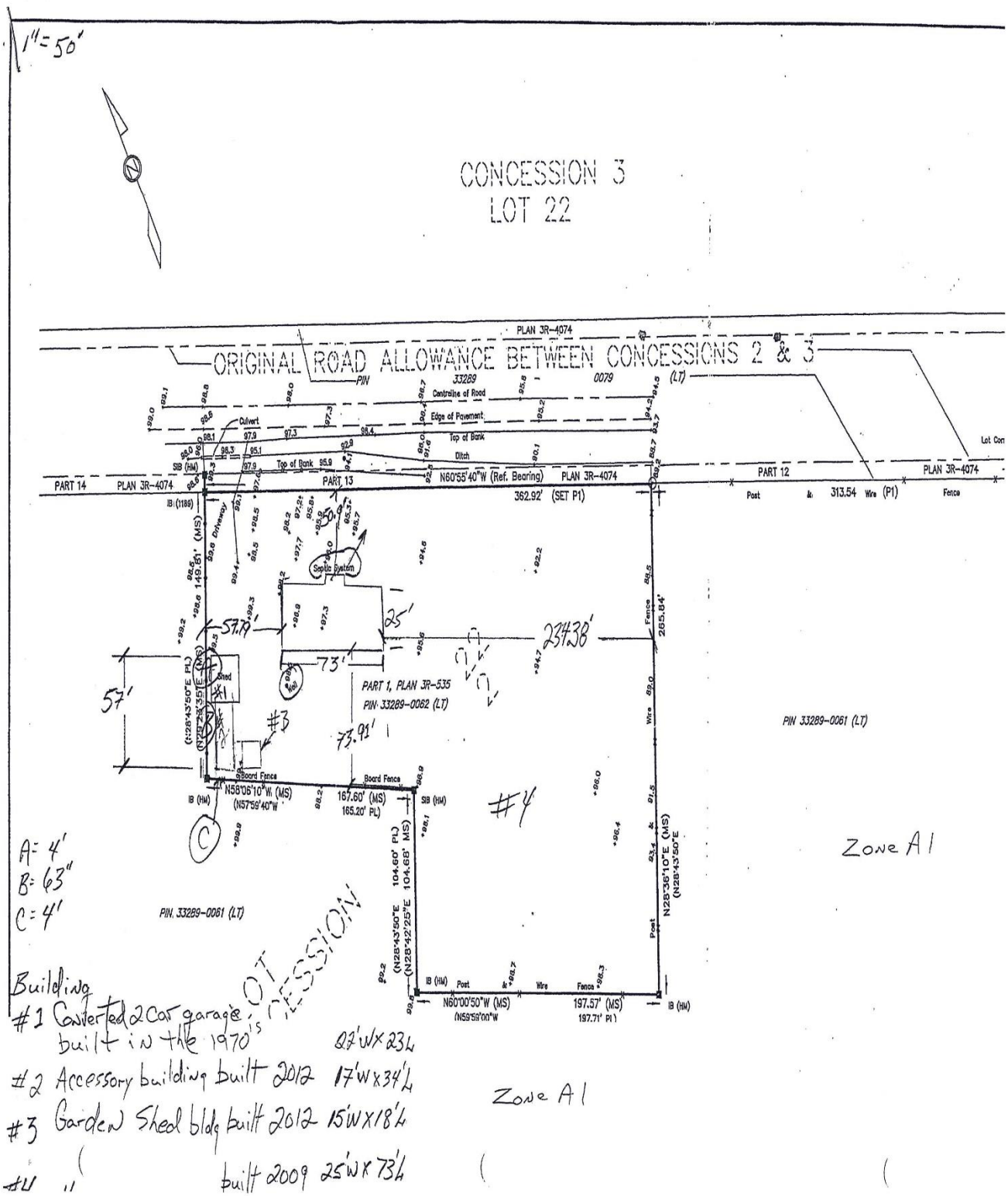
The proposal to permit a second additional residential unit in a detached building is not aligned with the Agricultural Guiding Principles. The ADU in the ancillary structure is located just over 1 metre from the lot line, significantly closer to the livestock facility on the adjacent lands than the unit within the existing dwelling. The location of the ADU in the ancillary structure does not meet the Minimum Distance Separation (MDS I) requirement to the livestock facility on the adjacent farm property.

On balance, adding a second residential unit in an ancillary structure does not align with the Guiding Principles and the Vision of a healthy, diverse and thriving future.

Airphoto



Site Plan



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), public comments (attached) and planning policy sections.

The subject land is a 0.692 ha (1.7 ac) Non-Farm Lot that was created as a surplus farm dwelling severance from the adjacent farm (543 Concession 2, Bruce Township). A 3-bedroom Additional Dwelling Unit (ADU) has been established in the basement of the principal dwelling. An existing detached shed with an attached quonset hut has been converted to an ancillary ADU (#1 and #2 on the site plan). There are 6 tenants, 3 in each unit. The owner of the farm objects to the ADUs. His correspondence is attached hereto.

The second ADU does not conform to the County Official Plan and neither ADU complies with the Zoning By-law. The Municipality has issued an order of compliance. Building permits were not issued by the Municipality for the two existing ADUs.

Amendments to the County Plan and the Kincardine Zoning By-law are required for two ADUs to be permitted.

Only a zoning amendment is required to permit the ADU within the dwelling.

Should planning approval not be granted, building permits may not be issued for the structures to be legally converted and used for human habitation.

Agricultural Areas

The Provincial Policy Statement (PPS) permits all types of residential intensification, including additional dwelling units (ADUs). ADUs may be located within the main dwelling or in a building or structure that is ancillary to the main residential building. The subject land is a Non-Farm Lot within a prime agricultural area. Impacts from any new or expanding non-agricultural uses on surrounding agricultural operations and lands are to be mitigated to the extent feasible. This proposal for two additional dwelling units should be evaluated against this policy.

The PPS (2020) emphasizes agricultural uses rather than housing supply in agricultural areas. Recognizing this direction, and the typically greater distances from services associated with residential uses in Agricultural areas, the County Official Plan permits one Additional unit in the 'Agricultural Area' designation. The basement ADU represents adaptation of the existing principal dwelling. The unit will increase occupancy without increasing or creating new impact to the agricultural area. It does not trigger the need for a Minimum Distance Calculation to be completed as it is already within the main dwelling. Accommodation is provided for up to three individuals, in addition to the main dwelling unit for the owner. Approval of this ADU represents good land use planning and is supportable.

Planning staff are not supportive of the second, ancillary ADU. The potential land use conflict with livestock operations on the adjoining farm is further discussed below.

Minimum Distance Separation (MDS) Formulae

As already mentioned, the subject land was severed from the adjacent McKay farm. The keeping of livestock is a permitted use on a Farm Lot within the Agricultural designation. The Minimum Distance Separation (MDS) Formulae seeks to reduce the effect of objectionable odours in a neighborhood by applying minimum distances between nearby dwellings and livestock facilities and manure storages. The McKays have confirmed there are two vacant livestock barns on their farm and a shed for feed. The barns are currently vacant, have previously housed livestock and there are plans to resume livestock operations in the future. The nearest barn to the subject land is intended for 12 bred heifers. The ADU in the ancillary structure is 17.67 m from this barn which is a significant shortfall from the MDS requirement of 93 m. The second livestock barn intended for 35 cows with calves is 122 m from the subject land. This is slightly less than the MDS requirement of 128 m.

All new land uses including lands to be rezoned to permit a residential or non-farm dwelling use are required to comply with the Provincial Minimum Distance Separation I (MDS I) Guidelines. Relief from MDS setbacks through planning applications is discouraged.

The existing main dwelling is an established residential use. As already mentioned, the basement ADU will not significantly change existing conditions relative to the livestock facilities. The ADU within the ancillary structure would be a new residential use located closer to the livestock facility than the existing dwelling. A deviation from the MDS requirement from 93 m to 17.67 m from an existing livestock facility is a significant shortfall. Planning staff do not recommend providing relief to permit a new sensitive use on the property that is nearer the livestock facility than the existing primary dwelling.

There are challenges to relocating the ADU elsewhere on the site, as a new larger septic system is required for the additional human occupancy, and the property has both a dug well (requiring a 30m setback to the septic system) and a drilled well (requiring a 15m setback to the septic system).

As already mentioned, in prime agricultural areas, agricultural uses have precedence over housing supply. Staff are not supportive of the ancillary ADU as it will infringe on livestock operations on the adjoining farm. Mr. McKay's correspondence opposing the application is attached hereto. He is concerned about land use conflict, specifically impact to future farm operations and potential odour and noise complaints adjacent neighbors.

Twenty-four (24) individuals in the area have signed a letter of support for this Application (refer to the Appendix). The correspondence indicates that Mr. McKay refused to sign the letter. The McKay farm surrounds the subject lands and would be most affected by the ancillary ADU.

Servicing Considerations

The site is currently serviced by two water wells located in the rear yard and a septic disposal system in the front yard. Upgrades or an additional sewage disposal system are required to service the ADUs. Details will be worked out at the building permit stage if appropriate zoning comes into effect.

The applicant will be required to comply with the Ontario Fire Code requirements as outlined in the Fire Chief's correspondence attached hereto. The Fire Chief has explained to Planning staff that the main dwelling with the basement apartment is considered a multiple residential building. As the dwelling was designed as a single dwelling unit, there are retrofit, fire separation and potentially separate access requirements yet to be addressed for the basement apartment. The basement apartment is a single unit occupied by 3 tenants sharing common areas (kitchen and bathroom facilities). All fire code requirements will be addressed during the building permit process.

Financial/Staffing/Legal/IT Considerations:

There are no financial, staffing, legal or IT considerations associated with this report.

Potential Appeal to Local Planning Appeal Tribunal.

Report Author:

Barbara Mugabe, Planner

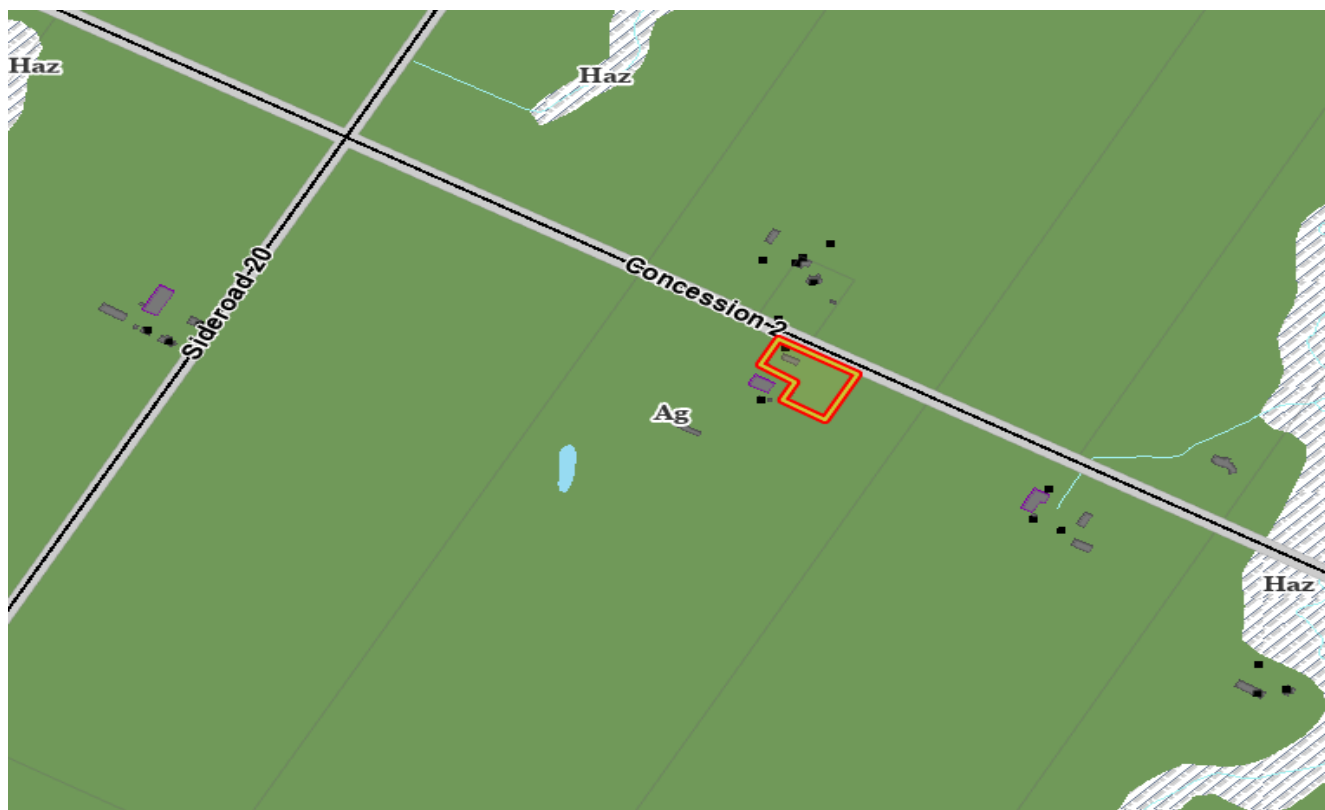
Departmental Approval:

Claire Dodds
Director of Planning and Development

Approved for Submission:

Derrick Thomson
Chief Administrative Officer

County Official Plan Map (Designated Agricultural Areas)



Local Zoning Map (Zoned General Agricultural "A1")



Agency Comments

Bruce Grey Catholic District School Board: No objection.

Director of Development and Infrastructure: No concerns with the proposal. All Building Code requirements will need to be met.

Chief Building Official:

- i. With the establishment of 2 additional ARU's, the owner will need to confirm that (a) the existing septic system is sized appropriately (b) sufficient lot area exists for the expansion of the existing septic system or (c) the installation of an auxiliary new Class 4 sewage system can be accommodated to on the lot for the additional daily design flows from the Accessory Residential Unit (ARU). This includes verifying clearances from private wells (15 m from drilled wells, 30 m from dug wells). (Planning staff note these servicing matters will be addressed in consultation with the Building Department).
- ii. The CBO has clarified that a building permit will be required.
- iii. Minimum Distance Separation (MDS) 1 identified which relief would need to be sought or recognized for a reduction between an ARU and Livestock Facility/ Manure Storage. (Planning staff have discussed MDS requirements above. MDS formulae requires specific information about type of livestock, quantity, and manure to calculate the minimum separation distance required between the ADU and the barn. The nearest barn is vacant; however, has not been commissioned and could house livestock again in the future. The amending by-law can only specify the physical distance from the nearest barn of 17.7 m and prevent future barn expansions from coming any closer to the subject land).

Fire Chief:

Kincardine Fire Chief requested confirmation of the maximum number of persons exchanging remuneration for lodging in each building before we can provide comments regarding this application. Based on the applicant's response, there are 3 tenants in the basement apartment and 3 tenants within the ancillary dwelling unit, a total of 6 tenants. Rental fees are around \$250 / week.

Based on this information, the Fire Chief's subsequent comments are as follows:

- i. The primary residence must be compliant with Ontario Fire Code Section 9.5 Retrofit as section 9.5 applies to (9.5.1.1 (1) buildings up to and including 6 storeys in building height with residential occupancies and containing (d) one or two dwelling units in combination with boarding, lodging or rooming accommodation for two, three or 4 persons, excluding the operator's residence. This is based on the basement being a single suite with 3 bedrooms.
- ii. As for the ancillary structure converted to a residential suite, I would defer to the CBO if it is set up as a single suite with 3 bedrooms. If it is 3 separate suites, it may also fall under Ontario Fire Code Section 9.5.

Historic Saugeen Métis (HSM):

- i. Lands, Resources and Consultation Department has reviewed the relevant documents and have no objection or opposition to the proposed County Official Plan and Zoning By-law Amendment as presented.

Director of Community Services: No objection.

Bruce Grey Catholic District School Board: No objection.

Saugeen Valley Conservation Authority (SVCA):

- i. The applications are acceptable. The subject property does not contain any natural hazard features or other environmental features of interest to the SVCA.