



Committee Report

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

From: Claire Dodds
Director of Planning and Development

Date: September 21, 2023

Re: C-2022-016 and S-2022-030 Barry's Construction and Insulation Ltd.

Staff Recommendation:

Subject to a review of submissions arising from the public meeting, that Bruce County Official Plan Amendment Application C-2022-016 for lands described as Part Lots 18 & 19, Concession 2 (Amabel) in the Township of South Bruce Peninsula, be approved; and,

That staff be authorized to grant draft approval to Plan of Subdivision file S-2022-030.

Summary:

The proposed development is a 12-lot subdivision on partial municipal services (piped water) along an existing road at Chesley Lake in the Town of South Bruce Peninsula. To facilitate the development, an application to amend the Bruce County Official Plan proposes to redesignate a portion of the 2 properties from Rural and Hazard to Inland Lake Development Area, Rural and Hazard. The subject lands represent 2 parcels separated by Foreman Drive.

A related application to amend the South Bruce Peninsula Official Plan proposes to redesignate a portion of the property from Rural to Shoreline Development. An application to rezone the property from RU1 - Rural to R2 - Resort Residential also includes a request for relief to the frontage provision in the R2 zone to permit 15 metres frontage, relief to the MDS setback for Lots 10 and 11; and relief to the minimum lot size for a lot within the RU1 zone from 40 ha to 19.8 ha.

A Public Meeting to consider Plan of Subdivision file S-2022-030, South Bruce Peninsula Official Plan Amendment L-2022-018 and Zoning By-law Amendment Z-2022-142, is scheduled at the Municipality of South Bruce Peninsula for September 19, 2023.

Alignment with Guiding Principles:

The proposal aligns with the Homes guiding principle by increasing the supply of homes in the community.

The proposal aligns with the Good Growth guiding principle in that it represents a rounding out opportunity using existing roads and water supply infrastructure.

The proposal aligns with the Heritage guiding principle in that archaeological potential has been appropriately assessed.

The proposal aligns with the Natural Heritage guiding principle in that the potential for impacts to natural heritage features and water quality has been studied and addressed through the design and conditions of draft approval.

On balance, this proposal is aligned with the Guiding Principles and the Vision of a healthy, diverse and thriving future.

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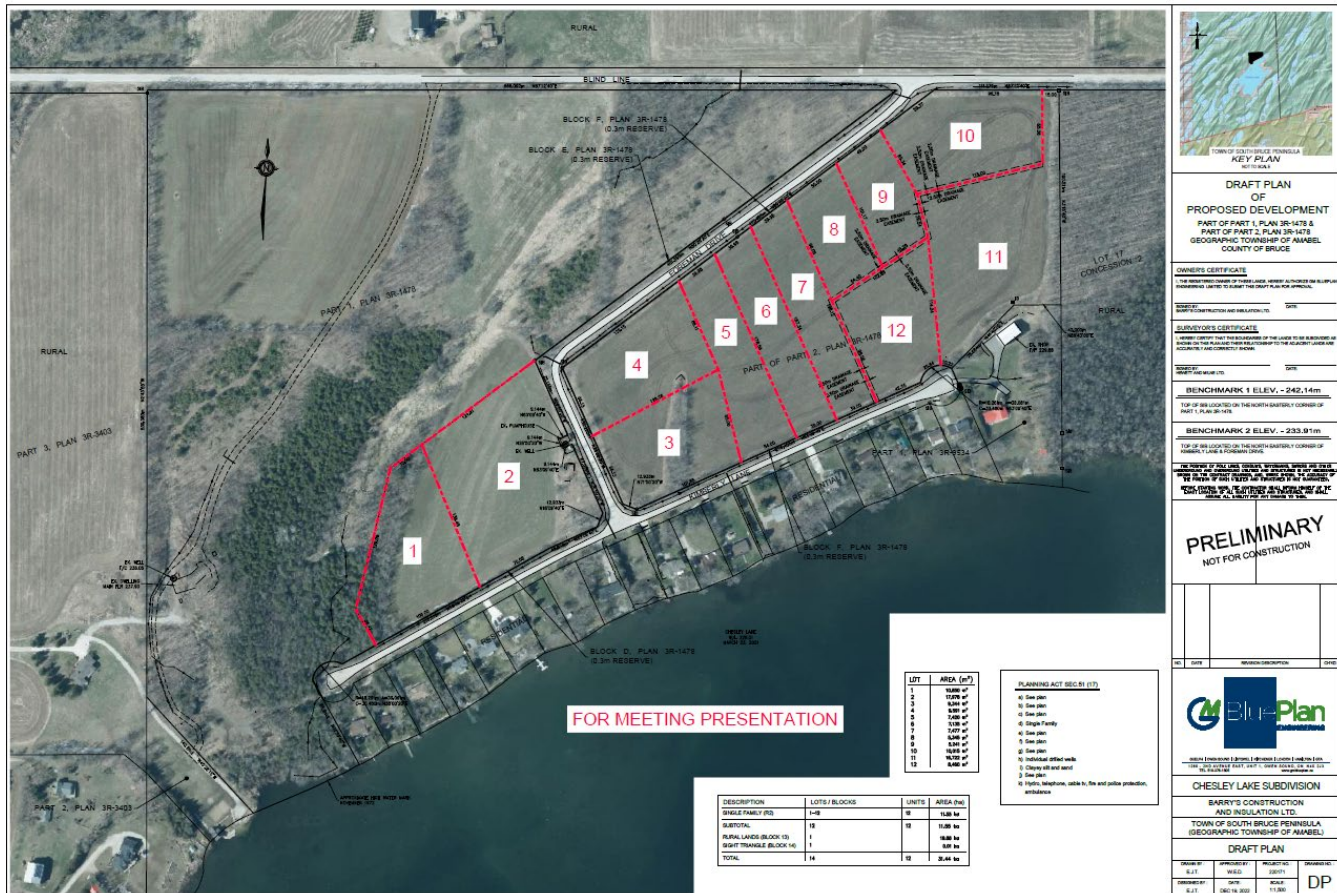


The applications propose:

- 12 residential lots on 11.55 hectares at Chesley Lake.
- One sight triangle located at the Blind Line / Foreman Drive intersection to be conveyed to the Town, as per the Municipality's request.
- The remainder of the property, which contains a detached dwelling, will be retained by the owner.
- The proposed lots will be partially serviced with water from the Foreman Well.
- Access to the lots will be along Foreman Drive and Kimberly Lane.

The proposed layout of the subdivision can be seen in the Site Plan below and the Inland Lake Development Area designation would be applied to the lands in the plan of subdivision.

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 a review of the Provincial Policy Statement 2020, the Bruce County Official Plan, and the Town of South Bruce Peninsula Official Plan.

The 2020 Provincial Policy Statement (PPS) issued under Section 3 of the Planning Act requires that land use planning decisions 'be consistent with' provincial policies.

Under Section 4.6 of the PPS, the Official Plan is identified as, "the most important vehicle for implementation of this Provincial Policy Statement. Comprehensive, integrated and long-term planning is best achieved through official plans. Official plans shall identify provincial interests and set out appropriate land use designations and policies." (PPS 2020, pg. 35).

Schedule 'A' of the Bruce County Official Plan (BCOP) locates the subject properties within the Rural designation with a Hazard designation applied to the watercourse. The applications propose to extend the Inland Lake Development designation that applies to the lots abutting the water, to include a portion of the subject properties so that the 12 Lots can be created. Through this site-specific review, the Hazard designation has been refined and more accurately reflects the watercourse on the retained parcel.

In the Official Plan, the Rural designation permits the development of an Estate Residential Subdivision subject to an amendment. The criteria to evaluate such proposals includes reviewing their potential effect on agricultural land and the servicing implications that it has for municipalities. The plan does direct residential development to urban centers however it recognizes that there is some need for residential development in rural areas.

Policy 1.1.3.1 of the PPS, 2020, notes that settlement areas shall be the focus of growth and development. While the subject lands are not within an area identified as a settlement area or urban area, they are adjacent to an established area with a municipal water system that has capacity for an additional 12 connections.

Policy 1.6.6.5 of the PPS, 2020, does not permit partial services for new development in rural areas and allows for partial servicing only to address failed private water and sewer services for existing development. Redesignating the lands from Rural to Inland Lake Development would create a continuous designation and permit the proposed lots to optimize the use of an existing municipal water service rather than drilling individual private wells, thereby resolving the concern about partial servicing.

The BCOP general policies for the Inland Lake Development area permit residential infilling in areas already substantially developed or the rounding out of existing development. The policy does note that such development cannot be interpreted to include any development which would have the effect of significantly expanding the existing built-up area without an amendment to the plan.

To determine if a plan amendment should be supported, the BCOP directs that several studies need to be completed to demonstrate that the land can accommodate the proposed development and that the impact of the proposed development on the carrying capacity of the lake can be addressed. The applicant has submitted the required studies to address the development capacity of the lands. The studies are generally supportive of the development and provide mitigation measures to ensure that the development will have no negative impact as illustrated in the following sections.

Agriculture

The lands fall within the Rural designation and are currently cropped. The lands are not identified as part of the Agricultural system, or as prime agricultural lands. Agricultural uses, including livestock facilities, do exist in the surrounding area. Minimum Distance Separation (MDS) Guidelines are used to avoid odour-related conflicts between animal agriculture uses and new sensitive uses, and involve calculations related to the size and type of the livestock or manure storage facility, as well as the size of the land base on which it is located. MDS includes consideration for expansion of uses, and generally provides greater flexibility for the location of livestock facilities than for the establishment of new sensitive uses. When a cluster of more than 4 sensitive uses is proposed, MDS setback distance requirements are doubled.

There are 2 barns within 750 m of the proposed development, one has been converted to a storage building and is not considered a livestock facility. Within the proposed subdivision, two lots will not meet the required 442 m setback with setback distances measured at 410 m and 385 m, respectively. This represents a 57 m (187 feet) and 32 m (104 feet) reduction. MDS Guidelines do permit the setbacks to be reduced where there are environmental concerns and to avoid natural hazards. The property contains a fair amount of land that

slopes toward Chesley Lake necessitating that the development areas be located closer to Foreman Drive and the Blind Line. Additionally, lot configuration and development envelopes were determined through an Environmental Impact Study (EIS) to direct development away from wetland features.

To assess the potential impact of the reduction in the setback distance on the adjacent active farm, staff completed an MDS II calculation to investigate the expansion potential of the livestock facility in relation to the proposed residential lots. The calculation indicates that the livestock could be increased from 70 units to approximately 200 units and still meet MDS II setbacks at 385 m.

Based on consideration of a minor distance reduction, the avoidance of a natural hazard and mitigation measures to protect environmental features, staff is recommending that it is appropriate to provide this relief through the zoning amendment.

Water Supply

This area is partially serviced with municipal water. A servicing plan was submitted in support of the application and originally indicated that 9 lots in the development will connect to the existing Foreman Well pending confirmation of servicing capacity. The proposed servicing plan was reviewed by the municipality's engineer who verified capacity, noting that all 12 lots can connect to the Foreman Well. Block 13 will remain in the Rural designation and the existing house will remain on a septic system and private well.

Wastewater Treatment

A Hydrogeological Report was submitted in support of the proposed development. The report contains a nitrate study and includes conceptual development envelopes for sewage systems and buildings for each of the 12 lots. The report concludes that development can occur on private septic systems which are not expected to cause impacts to the groundwater resources. The study was conducted in accordance with Ministry of Environment, Conservation and Parks (MECP) Procedures D-5-4 Technical Guideline for Individual On-Site Sewage Systems: Water Quality Impact Risk Assessment (1996) and resulted in an "estimated nitrate groundwater concentration of 1.07 mg/L, below the allowable concentration of 10 mg/L." (pg. 18).

The Hydrogeological report also addresses the impact of the proposed development on the carrying capacity of the lake. Lake capacity is an important consideration in the Official Plan, and has been raised through some of the community comments.

The Hydrogeological report states:

"With respect to the proposed development, it is reasonable to expect that these sewage systems will not have an impact on Chesley Lake or the existing unnamed stream, given that they will be designed to current design standards (shown to be effective for the treatment of phosphorus) and that the surface water features are approximately located 100 m and 35 m respectively from the nearest proposed sewage system, well beyond the expected plume size.

In addition to the findings of the study, the proposed lots are relatively large, allowing for significant attenuation of sewage in the subsurface (refer to section 6 of this report). Given that the proposed development will meet the required setbacks supported by current research and will be constructed in accordance with the current Ontario Building Code (OBC) standards, in combination with the large rural residential lot sizes, the phosphorus loading and transport to Chesley Lake is not considered a concern from the proposed septic systems.”

In response to public comments regarding phosphorus levels in Chesley Lake relative to provincial standards, the engineer stated further via email dated Sept. 8, 2023:

“The key fact supporting the development is that the phosphorous will be attenuated prior to reaching the Lake. As described more thoroughly in the report, the distance and hydrogeology will prevent additional phosphorous from reaching the Lake at any appreciable levels. Therefore, there is no “additive” affect to the Lake from the development. The phosphorous will be attenuated in the subsurface through natural processes, including mineral precipitation within the tile beds and soils directly downgradient. The proposed development is not relying on the lung or surface water body to attenuate the phosphorous.

Although not relevant to the development application (as per above) we note the following for information purposes. It is our opinion that they do not indicate increasing trends, but rather stable trends. The measurement of lake water chemistry includes variability due to many natural processes, including biological and physical (such as biologic degradation and water column mixing) that causes variability in measurement. The shallow systems are typically subject to more variability than deep systems in Lakes. Further, laboratory measurement is also subject to minor variability. The results from 2012, 2019, and 2021 are considered to be “stable” as opposed to increasing. The changes between the data points are considered to be minor (<10%), particularly for the “Deep” sampling locations and the “Shallow” locations in 2019 and 2021. The data is considered to be within natural variability and in our opinion, reflective of stable conditions.

It is also important to note that the recent water quality results are considered to be positive. The MECP’s Provincial Water Quality Objectives (PWQO) provide guidelines and criteria for surface water quality. The PWQO states:

“... the following phosphorus concentrations should be considered as general guidelines which should be supplemented by site-specific studies:

- To avoid nuisance concentrations of algae in lakes, average total phosphorus concentrations for the ice-free period should not exceed 20 µg/L;*
- A high level of protection against aesthetic deterioration will be provided by a total phosphorus concentration for the ice-free period of 10 µg/L or less. This should apply to all lakes naturally below this value;”*

The most recent phosphorus concentrations are below the 20 ug/l limit and consistently nearing the 10 ug/L. It is reasonable to expect the concentrations will remain similar or continue to decline over time. Continued improvements to existing sewage systems around the Lake as it arises during re-development will also contribute to improved water quality with time. As an aside, the current use of the land is agricultural, which typically includes more significant nutrient generation than rural residential.”

Stormwater Management

Section 1.6.6 of the PPS, 2020 addresses the management of stormwater. Specifically,

“1.6.6.7 Planning for stormwater management shall:

- a) be integrated with planning for sewage and water services and ensure that systems are optimized, feasible and financially viable over the long term;
- b) minimize, or, where possible, prevent increases in contaminant loads;
- c) minimize erosion and changes in water balance, and prepare for the impacts of a changing climate through the effective management of stormwater, including the use of green infrastructure;
- d) mitigate risks to human health, safety, property and the environment;
- e) maximize the extent and function of vegetative and pervious surfaces; and
- f) promote stormwater management best practices, including stormwater attenuation and re-use, water conservation and efficiency, and low impact development”

In support of the application, a Stormwater Management Report (SWM) was submitted and peer reviewed by the Town’s engineer. The plan proposes to use existing drainage outlets to accommodate the water off the proposed lots through culverts outletting to Chesley Lake. The proposal has been generally accepted by the Town and will be subject to more detailed design at the subdivision agreement stage.

Natural Heritage

Section 2.1 of the PPS 2020 directs that Natural features and areas shall be protected for the long term. An Environmental Impact Assessment (EIS) was submitted to and extensively peer reviewed by North South Environmental on behalf of the County. They are generally accepting of the assessment and recommend the following:

1. That an EIS Addendum be identified as a condition of approval for the application. At a minimum, the addendum should:
 - a. Confirm that the identified constraints and limits are upheld / implemented on the Site Plan.
 - b. Assess impacts associated with the proposed development / site plan including, as applicable, but not limited to limit of grading, stormwater / hydrologic impacts, servicing, outlets and water quality, habitat, occupancy impacts, etc.
 - c. If the time elapsed is greater than 5 years from conditional approval, surveys to verify site conditions may be required.

- d. A Species at Risk screening to verify that there are no new Species at Risk listed since the time of approval with potential to be impacted by the proposed development / site alteration.
2. Provide a dripline limit for the woodland and apply buffers from this revised limit. This may be submitted as a small technical brief/addendum appended to the final EIS.
3. Provide a tree inventory and retention plan for the units proposed for removal. This information may be used to inform compensation planting requirements.

With the submission of the above-noted information North South Environmental concludes that the EIS can be accepted as demonstrating consistency with Section 2.1 of the PPS, 2020. These recommendations have been included in the proposed Conditions of Draft Approval for the plan of subdivision.

Natural Hazards

Section 3.0 of the PPS 2020, Protecting Public Health and Safety, directs that development shall be directed away from areas of natural or human-made hazards. Grey Sauble Conservation Authority (GSCA) comments identify Natural Hazards on the properties to include the flood and erosion potential of the Chesley Lake Wetland and a watercourse and wetland feature that cross the western parcel. They note that the mapping indicates there is sufficient space outside of the hazard areas for development on Lots 1, 2 and 11. They have indicated that the proposed development is consistent with the Section 3.1 policies of the PPS. The GSCA comments are attached.

Cultural Heritage and Archaeology

Section 1.2 of the PPS, 2020 directs that municipalities shall engage Indigenous communities through the planning process:

“1.2 Coordination

1.2.2 Planning authorities shall engage with Indigenous communities and coordinate on land use planning matters.”

Further In Part IV: Vision for Ontario’s Land Use Planning System, the PPS, 2020 provides;

“The Province’s rich cultural diversity is one of its distinctive and defining features. Indigenous communities have a unique relationship with the land and its resources, which continues to shape the history and economy of the Province today. Ontario recognizes the unique role Indigenous communities have in land use planning and development, and the contribution of Indigenous communities’ perspectives and traditional knowledge to land use planning decisions. The Province recognizes the importance of consulting with Aboriginal communities on planning matters that may affect their section 35 Aboriginal or treaty rights. Planning authorities are encouraged to build constructive, cooperative relationships through meaningful engagement with Indigenous communities to facilitate knowledge-sharing in land use planning processes and inform decision-making.” (PPS, 2020 Pg. 5)

The Notice of Application and Public Meeting was also circulated to Saugeen Ojibway Nation (SON), the Historic Saugeen Metis (HSM) and the Metis Nation of Ontario.

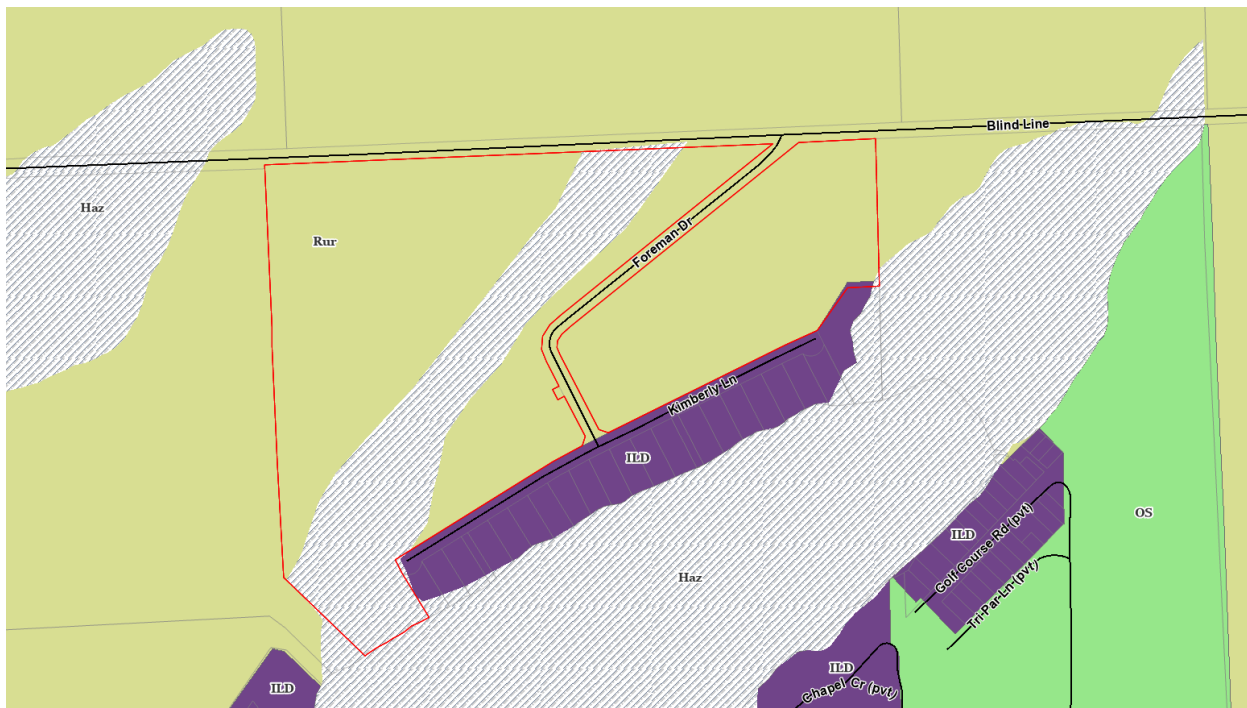
The proponents entered into a letter of agreement with the Saugeen Ojibway Nation Environment Office (SON EO), through which SON EO reviewed the file and commented: “We have reviewed the documents provided and do not have any concerns at this time. If archaeological resources are detected on the site during development in future please contact us immediately.”

HSM also has no objections to the application.

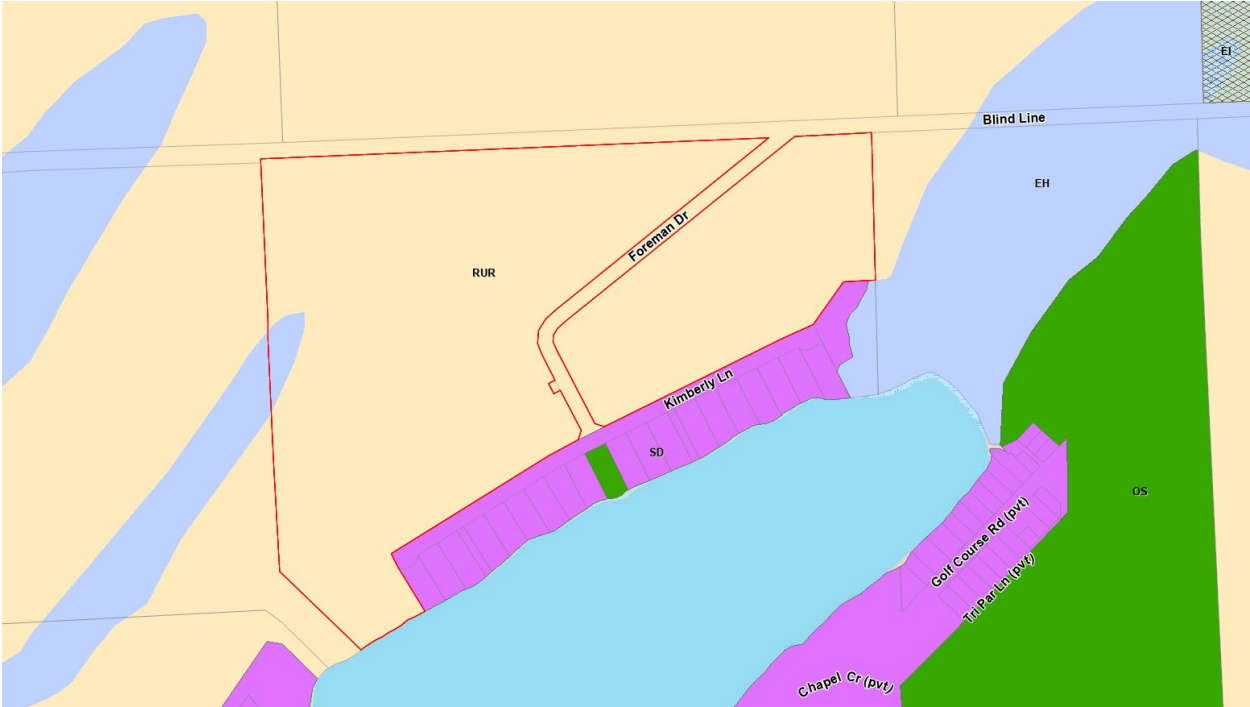
Appendices

- County Official Plan Map
- Local Official Plan Map
- Local Zoning Map
- List of Studies and Plans
- Agency Comments
- Public Comments
- Public Notice
- Official Plan Amendment draft By-law
- Draft Plan of Subdivision
- Draft Conditions of Approval

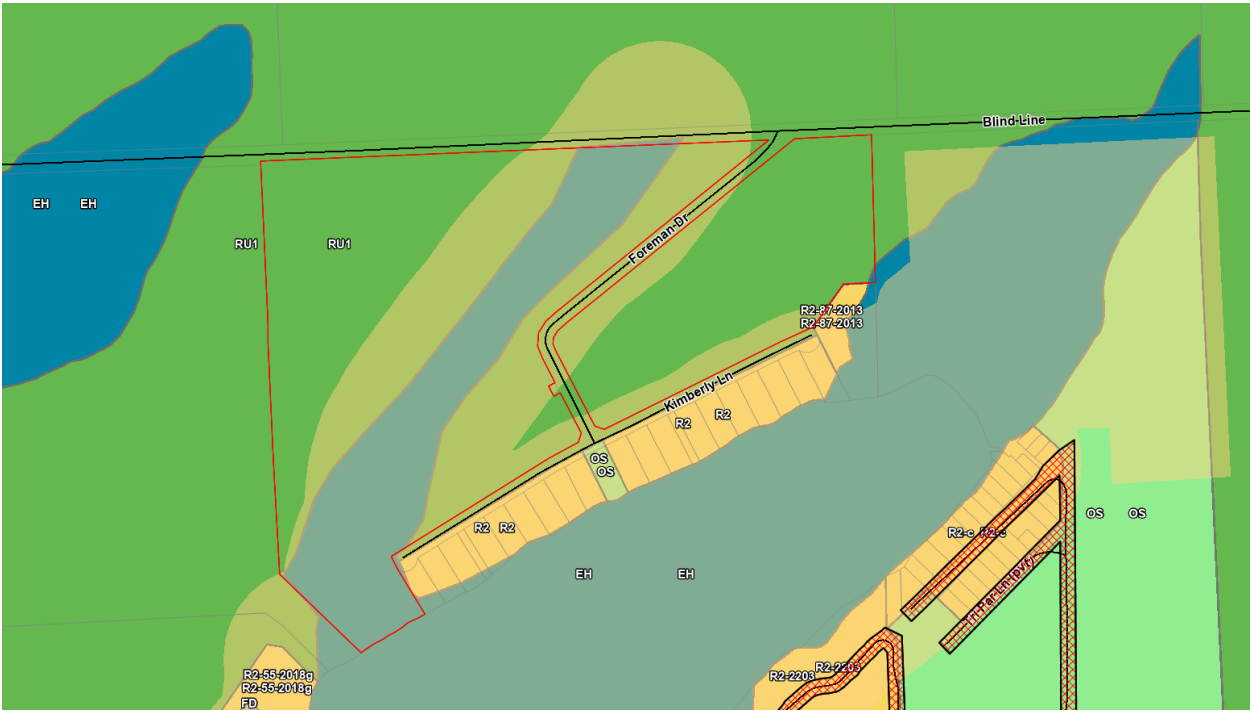
County Official Plan Map (Designated Rural Areas and Hazard Areas)



Local Official Plan Map (Designated Rural and Environmental Hazard)



Local Zoning Map (Zoned RU1 - General Rural, Environmental Hazard, Wellhead Protection Area E)



List of Studies and Plans

Draft Plan of Proposed Development. Part of Part 1, Plan 3R-1478 & Part of Part 2, Plan 3R-1478 Geographic Township of Amabel, County of Bruce. GM BluePlan Engineering. Project No. 220171. Dec 19, 2022.

Planning Report. Chesley Lake Subdivision. Ron Davidson Land Use Planning Consultant Inc. December 19, 2022.

Report on the 2004 Stage 1-2 Archaeological Assessment of the Proposed Development of Five Building Lots, Part of Lots 18 & 19, Concession 2 in the Geographic Township of Amabel, County of Bruce. AMICK Consultants Limited. Archaeological Consulting License # PO38 Project# PO38-115, Corporate Project #24543. November 2004.

The Ontario Ministry of Culture Stage 3 Archaeological Resource Assessment Bdhh-7 Geographic Township of Amabel, Bruce County, Ontario. Scarlett Janusas Archaeological & Heritage Consulting & Education. June 2008.

Natural Heritage Environmental Impact Study Kimberly Lane: Residential Multi-Lot Development. Part Lots 18 & 19, Concession 2, Geographic Township of Amabel, Town of South Bruce Peninsula. Aws Environmental Consulting Inc. operating as Aquatic and Wildlife Services. February 2022.

Hydrogeological Study. Chesley Lake Subdivision Part of Lot 18 and 19, Concession 2, Geographic Township of Amabel, Town of South Bruce Peninsula. December 2022. GM BluePlan Engineering, File No. 220171. M. Nelson, P.Eng., P.Geo.

Stormwater Management Report. Chesley Lake Subdivision Part of Lot 18 and 19, Concession 2, Geographic Township of Amabel, Town of South Bruce Peninsula. December 2022. GM BluePlan Engineering, File No. 220171. I.E. Eriksen, P.Eng. December 8, 2022.

Conceptual Sewage System and Building Envelope Plan. Chesley Lake Subdivision. December 7, 2022. GM BluePlan Engineering, File No. 220171. Drawing No: SSP. Preliminary.

Agency Comments

The applications were circulated to the required agencies. The following agency comments (attached) were received by the report submission deadline:

Bell Canada: in comments dated March 16, 2023, Bell Canada noted no objections to the application. The Owner is to contact Bell Canada during detailed design to confirm the provisioning of communication/telecommunication infrastructure needed to service the development. It has been requested that the following paragraph be included as a condition of approval:

“The Owner agrees that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.”

Staff response: This has been included as a condition of draft approval.

Hydro One: in comments dated March 17, 2023, noted no concerns with the proposal.

Historic Saugeen Metis (HSM): in comments dated March 23, 2023 the HSM noted no objection or opposition to the applications as presented.

Grey Sauble Conservation Authority (GSCA): in comments dated April 14, 2023 the GSCA noted no objections to the proposed development.

Risk Management Office -Source Water Protection (RMO): in comments dated March 29, 2023 the RMO provided a copy of the Sec. 59 Screening Notice under the Clean Water Act noting that “portions of these properties are located within the Wellhead Protection Area A for the Foreman Drinking Water System, whereby new septic systems are prohibited from being located within the WHPA A area. Also, the storage of fuel greater than 2,500 litres is prohibited and quantities greater than 250 litres would require a Risk Management Plan. Furthermore the storage of certain chemicals (e.g. degreasers, wood strippers, etc.) greater than 25 litres are also prohibited.”

Staff response: Lot 2, 3 and 4 are designed to accommodate septic systems outside of WHPA-A and the requirement to provide this notice to potential purchasers of Lots 2-4 has been included in the Conditions of Draft Approval. The remaining lots are not impacted by WHPA-A.

Town of South Bruce Peninsula: In comments dated June 27, 2023 Town staff noted that entrance permits are required, additional clarification regarding drainage is required, and confirmed that all proposed lots can be serviced from the municipal water system. Staff also noted that the shared swale through lots 7-12 inclusive must be constructed by the developer prior to the sale of the lots. This requirement has been included in the Conditions of Draft Approval.

Saugeen Ojibway Nation (SON): In comments dated July 4, 2023 SON noted, “[w]e have reviewed the documents provided and do not have any concerns at this time. If archaeological resources are detected on the site during development in future please contact us immediately.”

Resident Comments

The applications were circulated to all properties within 120 m of the subject lands. Comments received as of writing this report are attached.

Financial/Staffing/Legal/IT Considerations:

Potential Appeal to Local Planning Appeal Tribunal.

Report Author:

Jennifer Burnett,
Senior Development Planner

Departmental Approval:

Claire Dodds
Director of Planning and Development

Approved for Submission:

Derrick Thomson

Chief Administrative Officer