



PLANNING  
URBAN DESIGN  
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November 8, 2023

Jennifer Burnett  
Senior Planner  
Planning and Development  
Corporation of the County of Bruce  
268 Berford St, P.O. Box 129  
Warton, ON N0H 2T0

Dear Ms. Burnett:

**RE:                   Opinion on Application of Minimum Distance Separation (MDS) Setbacks  
proposed 12 Lot subdivision development at Part Lots 18 and 19 (Amabel) in  
the Town of South Bruce Peninsula at Chesley Lake**

**OUR FILE: 23340A**

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Further to direction from South Bruce Peninsula Council and Bruce County Council for additional information regarding Minimum Distance Separation (MDS) as it applies to the above noted plan of subdivision, MHBC is pleased to address your questions regarding the application of the Minimum Distance Separation (MDS) calculations to the above noted proposed plan of subdivision and provide our professional opinion regarding the same.

### **Background**

It is our understanding that an application has been made with the Town of South Bruce Peninsula for a plan of subdivision to create 12 lots that will be serviced by municipal water and private septic services. The subject lands are designated "Rural" in the South Bruce Peninsula Official Plan (SBPOP) and are not located in a settlement area. While Section 1.1.3.1 of the PPS 2020, directs that settlement areas shall be the focus of growth, Section 4.6 in the Implementation Section of the PPS also states that the Official Plan is the most important vehicle for implementation of the PPS. Therefore, County of Bruce staff referred to the SBPOP for direction regarding this proposed development. Section 2.3.3 of the SBPOP supports a limited amount of Estate Residential Development in the rural area as stated in the following policy: "A limited amount for additional growth will be permitted in the rural and hamlet communities primarily through infilling, estate residential /rural business park development, existing vacant lot development and severance activity"

There are two barns in the immediate vicinity one at 316 Blind Line, the other at 392 Blind Line. The MDS formula was applied by the County Staff to the existing barn located on the 100 acres farm at 316 Blind Line, a minimum separation distance of 442m was required. The MDS formula was not applied to the property at 392 Blind Line, as the barn on the property is no longer equipped to house livestock, as it has been decommissioned and is now used as a storage facility for a cash crop operation. An open temporary storage area for manure exist to the north of the decommissioned barn, but it is not a liquid manure tank.

### **PPS (2020) Conformity**

The Provincial Policy Statement (PPS) is a legislative policy document that provides policy direction on matters of provincial interest related to land use planning and development including the application of MDS when considering lot creation or barn expansion in an agricultural area. PPS policy 1.1.5.8 states that new land uses in *rural areas*, including the creation of lots or new expanding livestock facilities, shall comply with the *minimum distance separation formulae*.

The PPS defines Minimum Distance Separation formulae as:

*formulae and guidelines developed by the Province, as amended from time to time, to separate uses so as to reduce incompatibility concerns about odour from livestock facilities.*

The province issued Minimum Distance Separation (MDS) Document, Formulae and Guidelines for Livestock Facilities and Anaerobic Digester Odour Setbacks, Publication 853 (herein after referred to as the 'MDS Guidelines') in 2016, which came into effect on March 1, 2017. This document implements the provincial policy and is intended to prevent land use conflicts and minimize nuisance complaints from odour. It is intended to be read in its entirety and all relevant Implementation Guidelines are to be applied to each situation as if they are specifically cross-referenced with each other.

### **County of Bruce Official Plan (adopted May 20, 1997 and last revised June 21<sup>st</sup>, 2010)**

The property at 316 Blind Line is designated Rural and Hazard in the Bruce County Official Plan. Similarly, the property at 392 Blind Line is also designated Rural in the Bruce County Official Plan.

Policy 5.6.1.1 states that the Rural Designation covers those lands that are for the most part undeveloped by urban type uses; the rural areas of the County are often appreciated for their pastoral sense of open space. However, the Rural designation in fact contains a mix of land uses and economic activities which include natural resource uses such as farming, forestry and aggregate extraction and tourism based activities such as nature appreciation and outdoor recreational uses.

Policy 5.6.1.2 goes on to state that the intent of the Rural designation is to balance rural development pressures with the need to preserve and protect the rural landscape. Economic activities in the Rural designation shall be those that take advantage of the natural attributes of the Rural area but, at the same time, conserve and protect the rural landscape for the enjoyment of future generations. New developments shall be low in scale and intensity, with particular attention being paid to the protection of the environment and increased service demands placed on rural municipalities.

Additionally, rural areas include those areas of Class 4, 5, 6 and 7 soils as defined by the Canada Land Inventory Soil Capability Classification for Agricultural Capability that are greater than 80 hectares in size and pockets of Class 1, 2 or 3 soils that are smaller than 80 hectares in size. As a result, this designation will include a combination of higher capability and lower capability soils. The designation has been determined based upon the 80 hectare majority of the predominant soil type.

The policy goes on to state that these areas have been identified as generally non-prime agricultural soils in Bruce County, based upon the Canada Land Inventory mapping. It is intended that a local municipality may develop a local strategy for identifying rural areas through an Amendment to this Plan, or by the preparation of a Local Official Plan.

Policy 5.6.4 outlines the following permitted uses in a rural area:

- i) Agricultural uses in accordance with Section 5.5.2 [Permitted Uses (Agricultural Areas)];
- ii) Farm Related Commercial and Industrial Uses in accordance with Section 5.5.9 [Farm Related Commercial and Industrial Uses (Agricultural Areas)];
- iii) Institutional Uses in accordance with Section 5.5.10 [Institutional Uses (Agricultural Areas)];
- iv) Home Industries and Home Occupations in accordance with Section 5.6.4.2 [Home Industries and Home Occupations (Rural Area)];
- v) Rural Industrial uses in accordance with Section 5.6.6 [Rural Industrial (Rural Area)];
- vi) Rural Commercial Uses in accordance with Section 5.6.7 [Rural Commercial (Rural Area)];
- vii) Non-Farm Residential use, including Additional Residential Units in accordance with 4.4.4.1 (xi) and Section 5.5.12; and,
- viii) Seasonal Residential Use.

Despite the Rural land use designation of properties containing the barns, the PPS Section 1.1.5.8 requires that new land uses, including the creation of lots, and new or expanding livestock facilities, shall comply with the *minimum distance separation formulae*. This is implemented through policy 5.5.11 in the County Official Plan which states:

1. New land uses, including the expansion of existing or the establishment of any non-agricultural uses including the creation of lots, and new or expanding livestock facilities shall comply with the Provincial Minimum Distance Separation Formulae (as amended from time to time).
2. The Municipal Comprehensive Zoning By-Law shall incorporate the Provincial Minimum Distance Separation (MDS) Formulae (as amended from time to time).
3. A Minor Variance or Zoning Amendment to allow for a reduction in the Provincial Minimum Distance Separation requirements shall consider at a minimum the following: (i) does the reduction have regard for the intent of the Official Plan; (ii) does the reduction have regard for the intent of the Zoning By-Law; (iii) is the reduction minor in nature; (iv) is the reduction desirable and appropriate for the area; and (v) can any potential environmental impacts be appropriately mitigated.

## **MDS Conformity**

In accordance with the PPS and the County Official Plan, the application of the minimum distance separation formulae for nearby barns was considered during the review of the subdivision application. The County staff applied the MDS calculation as required by the PPS, to the proposed development and 2 of the 12 lots require reductions in the setback from 442m to 410m and 385m respectively, which was supported through an amendment to the zoning by-law in accordance with the County of Bruce and South Bruce Peninsula Official plan policy. MDS I calculations from the barn at 392 Blind Line was not applied by the County, as the building (previously used for livestock) was decommissioned and is currently only used for storage and cannot be used to house livestock. We agree with the County's position as it relates to the applicability of MDS to this barn, as it is consistent with Guidelines 3 and 20, which does not require the application of MDS to certain unoccupied livestock barns. An unoccupied livestock barn is defined in the MDS Guidelines as:

*A livestock barn that does not currently house any livestock, but that housed livestock in the past and continues to be structurally sound and reasonably capable of housing livestock.*

In order to apply MDS to the unoccupied livestock barn, the barn must be structurally sound and reasonably capable of housing livestock. As noted, it is our understanding that the barn has been decommissioned and is not 'reasonably capable' of housing livestock. As a result, MDS should not apply to this barn.

However, as a 'cautionary' measure, we have applied Guideline 20 to the unoccupied barn. In accordance with MDS Guideline #20, when it is not possible to obtain the information from the farm operator then the following default factors are to be applied to unoccupied livestock barns:

- Factor A=1.0
- Factor B is based on 1 Nutrient unit/20m<sup>2</sup> of area of livestock housing (**Note**, it is our understanding that only 350 square metres of the barn was used to occupy livestock and this barn area was used in the calculation).
- (NOTE: assume barn is only one storey high if using Aerial photography)
- Factor D=0.7

These factors were applied to this site, which resulted in a Minimum Distance Separation of 344m being required from the proposed development. See **Figure 1** below. Based on the application of Guideline 20 to the unoccupied livestock barn, the proposed plan of subdivision complies with MDS.

### Unoccupied Livestock Barn MDS



Prepared By:  
MHBC

Notes:  
Calculated at a setback of 344 m



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THIS IS NOT A PLAN OF SURVEY.

Map Created: 10/24/2023  
Map Center: 44.56595 N, -81.21603 W

## **MDS from Manure storage**

The property at 392 Blind Line also appears to contain an existing concrete pad located behind the existing barn, that we understand has been used from time to time to temporarily store solid manure before it is spread on the adjacent agricultural fields. MDS Guidelines 3 and 4 specifies that "temporary field nutrient storage sites" or "transfer facilities" are not required to apply the MDS 1 calculation to these facilities, as they are not considered permanent manure storage. A temporary field nutrient storage site is regulated under the Nutrient Management Act, 2002. O. Reg 267/03 defines a temporary field nutrient storage site as:

*a location that is not a permanent nutrient storage facility and where solid prescribed materials are stored for more than 24 hours;*

The length of time permitted to field store manure depends on the dry matter content of the manure as well as other site conditions as regulated by the Nutrient Management Act. In certain circumstances, temporary field storage can occur for over 60 days, subject to meeting the requirements of the Regulation under the Act.

Furthermore, Guideline 4 applies to 'manure transfer facilities'. These types of facilities store manure for less than 14 days before transfer to a longer-term permanent storage, or transfer to field spreading areas, or transfer off the farm. In accordance with Guideline 4, manure transfer facilities are not considered permanent manure storages and instead receive the same MDS setback as the

livestock barn. Therefore, in this instance the MDS setback of 344 metres, as calculated above, would be applied and measured from the manure transfer facility. As noted above, the proposed plan of subdivision complies with the MDS setbacks to the barn and by extension it would comply to the MDS setback to the manure transfer facility as it is located further way to the subdivision than the barn.

## **Opinion**

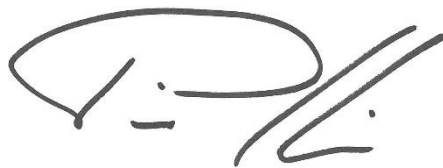
It is our understanding that the owner of 392 Blind Line (Mr. Skinner) has expressed concern over the proposed subdivision development to the south of his property, as the MDS 1 calculation was not applied.

Based on our understanding that the barn has been decommissioned and the manure storage is temporary, in accordance with MDS Guidelines 3 and/or 4, it is our opinion that the MDS 1 calculation is not required for the reasons cited above AND further that in order to apply the MDS 1 calculation, the barn has to be 'reasonably capable' of housing livestock and have appropriate permanent manure storage with an approved nutrient management plan to handle the nutrients generated on-site. Notwithstanding the above should MDS I be applied to the unoccupied barn at 392 Blind Line, the proposed plan of subdivision would comply with MDS in accordance with Guideline 20.

We trust the above satisfies your requirements. Should you require any further information, please do not hesitate to contact the undersigned.

Yours truly,

**MHBC**



Pierre Chauvin, BSc (Agr), MA, MCIP, RPP  
Partner



Juliane vonWesterholt, BES, MCIP, RPP  
Associate