



## Staff Report to Council - for Direction

**Title:** Addendum Report 2-Bruce County Official Plan Amendment Application C-2022-016 for Barry's Construction and Insulation Ltd.

**From:** Jack Van Dorp, Director of Planning and Development

**Date:** March 7, 2024

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### Staff Recommendation:

That Bruce County Official Plan Amendment Application C-2022-016 for Barry's Construction and Insulation Ltd., 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.

### Report Summary:

At the December 14, 2023, Council meeting, staff were directed to complete additional Minimum Distance Separation (MDS) calculations for a livestock facility at 392 Blind Line to assess the impact of a proposed plan of subdivision on the expansion potential of the livestock operation. The calculations were completed, and this report provides further discussion on the impact of reducing the MDS setback. This report should be considered together with the [September 21, 2023](#) and [December 14, 2023](#) staff reports.

### Background:

A Public Meeting was held September 21, 2023 to consider a plan of subdivision and official plan amendment for a proposed 12-lot subdivision on partial municipal services (piped water) along an existing road at Chesley Lake in the Town of South Bruce Peninsula. A decision on the application was deferred pending the completion of an MDS calculation for a barn located at 392 Blind Line. Livestock information was provided by the owner and a calculation in accordance with "The Minimum Distance Separation (MDS) Document: Formulae and Guidelines for Livestock Facility and Anaerobic Digester Odour Setbacks Publication 853" (MDS Document) using the Agrisuite Software provided by the Ontario Ministry of Agriculture Food and Rural Affairs (OMAFRA) website, was completed by staff. A staff report was presented to Council on December 14, 2023, recommending approval of the applications with the decision again being deferred pending additional MDS calculations with further revised livestock type and numbers provided by the owner as well as a calculation utilizing an increased barn area.

On the invitation of Nancy and Larry Skinner, County planning staff met the owners on-site on January 19, 2024, to measure the inside of the livestock facility. Stuart Doyle, from Barry's Construction and Insulation Ltd. and a staff member from GM BluePlan Engineering were there to survey the location of the barn for the purposes of measuring the setback distance from the barn to the lot line.

At the site visit, staff took measurements of a livestock facility comprised of a 304 m<sup>2</sup> bank barn with a 333 m<sup>2</sup> insulated barn addition and a stand-alone manure enclosure. The 304 m<sup>2</sup> bank barn contains pens for livestock along with 1.2 m wide walkways down the centre of the barn and along the back end along with an animal feed mixing machine (image below).



The 333 m<sup>2</sup> insulated barn addition has no livestock pens or walkways and is used for storage of farm vehicles and equipment. It has 4 overhead doors. While this portion of the barn looks like a drive shed, and the building is currently used for farm vehicle storage, staff agree with the owner that it has the potential to house livestock and an MDS calculation should be completed.

Guideline #20 of the MDS Document requires that an unoccupied livestock barn calculation use the number of livestock or the area of livestock housing, with that information being supplied by the owner. Based on information supplied by the owner the following calculations have been completed:

1. 80 sows farrow to wean- based on livestock numbers provided by the owner in a September 28, 2023 email the setback is 388 m.
2. Default Factor - based on a total area of 595 m<sup>2</sup> the MDS setback is 472 m. Staff note that the bank barn measurement does not include the walkways. Applying a conservative

approach, the gross floor area of the drive shed was calculated as it is not known at this time type of livestock, or the housing configuration needed. Typically, the livestock housing area does not include equipment storage, feed bins, feed storage or preparation areas. Those areas would not be included in the calculation.

## Discussion:

The intent of the MDS Guidelines is to prevent land use conflicts and minimize nuisance complaints related to the odor from livestock and manure storage on neighboring farms. MDS is not intended to address odor related to manure being spread on fields, dust, noise, or smoke etc. related to agricultural operations. The MDS document provides guidance on reducing the setback. Guideline 43 states that,

“MDS I setbacks should not be reduced except in limited site-specific circumstances that meet the intent of the MDS document. Examples include circumstances that mitigate environmental or public health and safety impacts or avoid natural or human made hazards.

If deemed appropriate by a municipality, the processes by which a reduction to MDS I may be considered could include a minor variance to the local zoning by-law provisions, a site specific zoning by-law amendment or an official plan amendment introducing a site specific policy area.”

In both calculations, the MDS setback is greater than the distance to the area of the lands being redesignated for residential development. The 472 m setback encompasses the lands proposed for development and extends to Kimberly Lane, the southern boundary of the development.

To assess the request to reduce the MDS I setback, the December 14, 2023 staff report applied an evaluation similar to the 4 tests of a minor variance along with an evaluation to assess if any potential environmental impacts can be appropriately mitigated. That evaluation considered:

1. Does the reduction in the MDS Setback keep with the intent of the official plan?
2. Does the reduction in the MDS setback keep with the intent of the zoning bylaw?
3. Is the reduction in the MDS setback desirable and appropriate for the area?
4. Is the reduction in the MDS setback minor in nature?
5. Can any potential environmental impacts be appropriately mitigated?

In considering a reduction to the 472 m MDS I setback, the previous evaluation would still apply in addition to the following considerations:

The MDS document provides that where a reduction is being considered, there is no stated limit on reducing the MDS I setback:

“Determining if a proposed reduction in MDS setbacks is minor depends on the context in which the reduction is being proposed. Minor means different things to different people. OMAFRA does not endorse a specific % decrease (e.g., 5% or 10%) for MDS setbacks. In some circumstances, a very small reduction in an MDS setback may not be considered minor given the surrounding land uses and potential odour conflicts. In other instances, a significant reduction in an MDS setback may be considered minor. The perception of what is ‘small’ or

‘minor’ in nature will vary depending on local and site specific circumstances.” (MDS Document, Pg. 100)

The reduction request is evaluated based on the context of the proposed development. As previously noted, the proposed plan of subdivision would effectively expand the existing residential development. The area is populated by cottages and single-detached dwellings around Chesley Lake. The proposed subdivision is adjacent to existing residential development and will utilize the available municipal water system, an existing year-round maintained road, a municipal park, garbage services and utilities. The development potential of the land is limited due to environmental features and a watercourse on the retained portion. The proposed 12 lots are the maximum yield of the lands.

The site design was completed after an Environmental Impact Study (EIS) was completed and locates septic systems outside of the municipal well head protection area. A nitrate and servicing study were completed to support the development and general sewage and building envelopes were located away from any environmental features or slope hazards.

The proposed development will not limit the ability of the existing vacant livestock facility to operate at capacity. As the barn already exists, an MDS II calculation is not required to house livestock in it. An MDS II calculation is only required when a building permit is submitted for a new or expanding livestock facility. Expansion of the livestock operation beyond its current capacity is already limited by the existing dwellings along Kimberly Lane, which are located at the edge of the required 472m setback.

The distance from the barn to the area of the lands being redesignated was surveyed by the Developer’s consultant, GM BluePlan Engineering Ltd., and is 307.58 m at the closest point of the lands being redesignated. The previous staff report recommended a reduced MDS I Setback of 330 m. Based on the more accurate information available from the survey, and the analysis conducted as outlined in this report and the previous reports, a reduction in the MDS I setback to 307.58 m to the lot line is appropriate noting that this would be the nearest lot line, and that yard setbacks and topographic conditions would further direct the location of development.

The Town of South Bruce Peninsula approved the local official plan amendment and zoning by-law amendments on December 5, 2023 indicating support for the proposed development.

### **Additional Comments**

Additional comments dated February 14, 2024, were submitted by MHBC Planning on behalf of the developer. Those comments are attached for Council’s consideration.

Additional comments dated February 22, 2024, were submitted by KDB Law Professional Corporation on behalf of the adjacent landowners, Larry and Nancy Skinner. Those comments are attached for Council’s consideration.

### **Financial/Staffing/Legal/IT Considerations:**

Potential Appeal to Local Planning Appeal Tribunal.

**Report Author:**

Jenn Burnett, Senior Development Planner

**Departmental Approval:**

Jack Van Dorp

Director of Planning and Development

**Approved for Submission:**

Christine MacDonald, Chief Administrative Officer