



Committee Report

To: Warden Mitch Twolan
Members of the Planning and Development Committee

From: Kara Van Myall
Director of Planning and Development

Date: June 20, 2019

Re: BCOPA 241-19.34 Eidt-Zettler

Recommendation:

Subject to the review of objections and submissions arising from the Public Meeting:

That Bruce County Official Plan Amendment 241 be approved; and,

That the By-Law be forwarded to County Council for adoption.

Executive Summary:

The subject lands are located at 51 Sideroad 15, east of Walkerton.

The application proposes to create a 1.8 acre surplus farm dwelling lot with a 29 acre retained lot that would continue to be used for cash cropping. There is no new development proposed. The proposal involves three applications:

- This Official Plan Amendment to permit the severance, notwithstanding the number of lots that were severed in the past and the size of the retained lot;
- A Consent application to create the surplus farm dwelling lot; and,
- A Zoning By-Law Amendment to: rezone the severed lot to recognize any deficient setbacks resulting from the severance; place a nutrient unit restriction on the property; and rezone the retained lot to prohibit a dwelling.

Background:

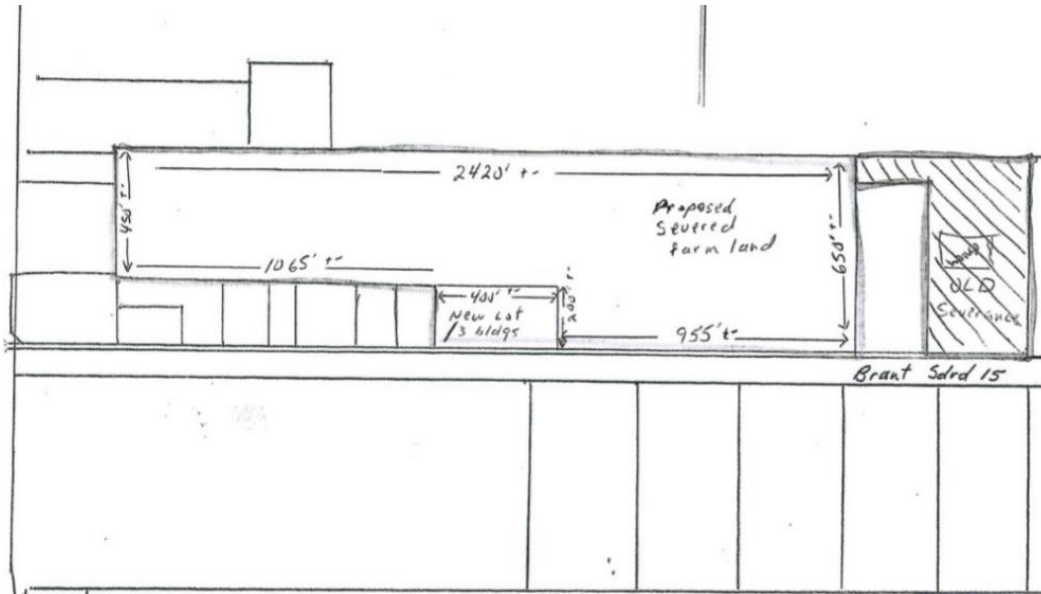
The total land area is about 31 acres. There is a house, barn and shop on the lot to be severed. The applicant rents and cash crops the retained lot and would consolidate the 29 acre field into their farm operation. There is an agreement to purchase between the applicant (Zettler) and the current owner (Eidt).

Description of Proposed Official Plan Amendment

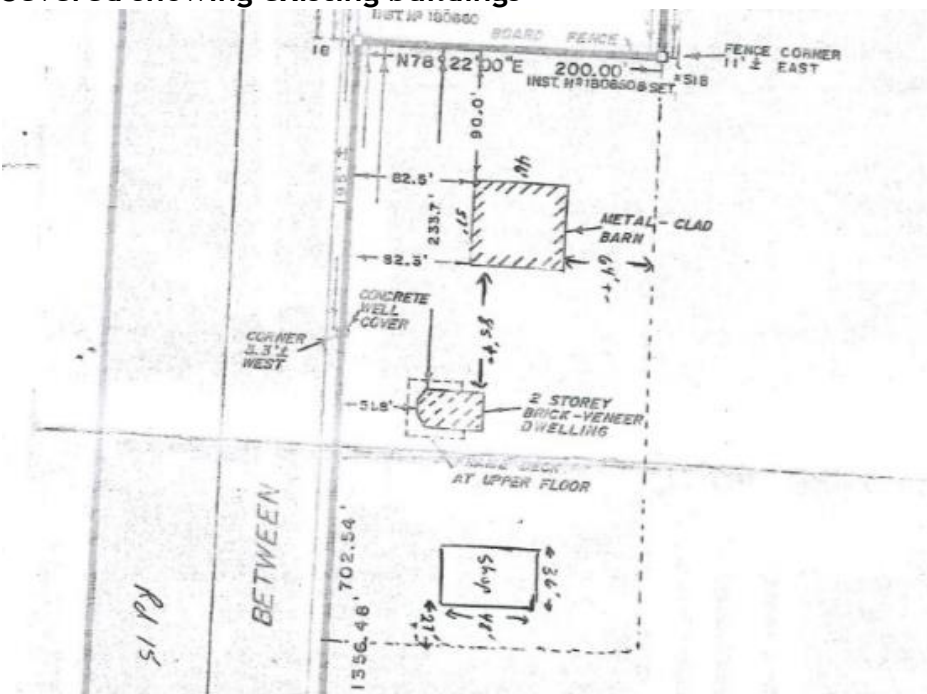
The land is designated Agricultural Area. The Official Plan Amendment would have the effect of permitting a surplus farm dwelling severance, notwithstanding that: more than 2 lots including the retained have been created from the original Crown surveyed lot; and, the 29 acre retained lot is smaller than the 100 acres generally required.

Applicant sketches:

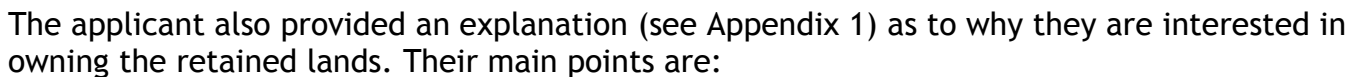
Severed and retained dimensions



Severed showing existing buildings



The applicant's submission included a map of their farm operation and justification of the need to consolidate the retained land, without the residence and accessory buildings, into their farm business. A map of the subject lands within their area of operation is below.



- They have been renting the lands for about twenty years and have invested money and effort into improving the land;
- With the exception of an access road along the south edge, the whole acreage is useable for cash cropping;
- The land is very close to the home farm;
- Even though it is a smaller acreage, the fact that it is so close and convenient it is a nice asset to their existing farming operations; and,
- They have no interest in owning the house or other buildings.

Provincial Interests

Under Section 3(5) of the *Planning Act*, Council decisions “shall be consistent with” matters of provincial interest as set out in the Provincial Policy Statement (PPS). The subject lands are in a Prime Agricultural Area. Prime Agricultural Areas are to be protected for long term use for agriculture.

In the PPS, lot creation in ‘prime agricultural areas’ is discouraged and only permitted for agricultural uses, infrastructure, agriculture-related uses and a residence surplus to a farming operation. A severance for a residence that is surplus to a farm operation is permitted provided that:

- it is the result of farm consolidation;
- the new lot is limited in size; and
- residential dwellings are prohibited on the remnant parcel.

The PPS does not set out a minimum size for the remnant parcel.

Comment:

The retained lot will be consolidated into a farm operation. The new 1.8 acre lot is limited to the existing house, barn and shop and would not encroach onto the field on the retained lot. The retained lot will be rezoned to prohibit a house. Therefore, the application is consistent with the Provincial Policy Statement.

The applicable PPS policies are listed in Appendix 2.

County Official Plan

The subject lands are designated Agricultural Area in the Bruce County Official Plan.

The policies for the Agricultural Area include: an original Crown surveyed lot shall not be divided into more than two parcels, including the retained lot; and the minimum lot area of lands shall be generally 40 hectares (99 acres).

The consent policies permit a severance for the creation of a lot for an existing residence and buildings surplus to a farming operation as a result of a farm consolidation. To meet these policies, the owner of the farm lands must be a ‘bona fide farmer’. For the purposes of this policy, the ‘bona fide farmer’ must:

- a) own and farm the lands on which the surplus dwelling is proposed to be severed;
- b) own and farm other lands; and,
- c) own a residence elsewhere, or reside as a tenant elsewhere, therefore rendering the residence on the subject farm surplus to their needs.

A ‘bona fide farmer’ is defined as including a limited company, sole proprietorship, incorporated company, numbered company, partnership, non-profit and other similar ownership forms.

The Official Plan also requires that the lot proposed for the residence and buildings surplus to the farming operation is to be limited in area and shall only be of sufficient size to accommodate the residence surplus to the farming operation, accessory buildings (where including accessory buildings does not render the lot excessively large in the opinion of the Land Division Committee), a well and a sewage disposal system, while ensuring that as little land as possible is removed from the agricultural lands.

Comment:

The application would conform with the County Official Plan (this is discussed further in the Planning Analysis section below).

Zoning By-law:

The subject lands are currently zoned 'General Agriculture (A1)'. The retained lot is proposed to be zoned with a special provision that would not permit a house. The severed lot is proposed to be zoned with a special provision that would: limit the number of nutrient units on the severed parcel to 1.25 units per ha; and recognize any buildings that do not meet zoning setbacks of the A1 Zone.

Agency Comments:

- Municipality of Brockton - Civic address number to stay with severed property.
- SVCA - The County Official Plan Amendment is acceptable to SVCA staff.
- Bruce Grey Catholic District School Board - no comments.
- Historic Saugeen Metis - no objection or opposition.
- Hydro One - no comments or concerns.

Public Comments:

At the time of writing this report, two letters from the public were submitted in opposition to the proposal (attached in Appendix 7).

Planning Analysis:

The applicant (Zettler) meets the definition of a bona fide farmer, has an agreement to purchase the lands, owns and farms other lands in the area, and does not live on the subject lands. The lot to be severed is an appropriate size and has logical lot boundaries with no land taken out of active agricultural production. The lot to be retained will be rezoned to prohibit a house. Therefore, the application meets the PPS and County Official Plan policy tests specifically related to surplus farm dwelling severances.

In terms of the broader County Official Plan policy about the number of lots from an original Crown surveyed lot, this would be the 17th lot. While the main intent of this policy is to prevent fragmentation of the land resource, we recognize that this area was allowed to be extensively fragmented some time ago. In our view, this application, which will not result in new development, would not introduce any new impacts into this area.

In considering the broader policy on farm size, we note that the 29 acre retained lot would be smaller than the 100 acre minimum size policy. While the intent of this policy is to promote and maintain viable farming operations and minimize impacts on the farm community, we recognize that this area was allowed to be broken up into smaller farms and residential lots some time ago - the subject lands are already smaller than the minimum farm size policy as a result of these past decisions. Despite its size, it is noteworthy that the retained parcel is ideally located for efficient farm machinery movement and valued within the Zettler operation. Moreover, this application would bring the retained parcel into the ownership of a larger and viable farm operation and would not create negative impacts on the farm community.

Conclusion:

Based on the foregoing points and taking into account the broader purpose of the County Official Plan, which is to strengthen the agricultural community, this application is consistent with the Provincial Policy Statement, would conform with the Bruce County Official Plan and would be good land use planning.

Financial/Staffing/Legal/IT Considerations:

Potential Appeal to Local Planning Appeals Tribunal

Written by:

Mark Paoli, M.Sc., RPP

Senior Planner, Planning and Development

Appendix 1 - Additional Information Supplied by the Applicant

In support of my Official Plan Amendment Application the following points are provided.

Our farming operation consists of a father and three sons (supported by our wives, of course) so it is a family operation. We are mainly cash crop farmers.

We have been renting the land in question for twenty some years so are quite familiar with this piece of property and know what crops we can get from the land. It has basically become part of our farming operation over the long period of time we have been renting it. We have cleaned this acreage up over the years of use, removing stone piles, dead trees, cross fences, etc. so we do have time invested in the land. With the exception of an access road along the south edge of this field the whole acreage is useable for cash cropping.

This acreage is located very close to our home farm, being about half a block away, and located between our home farm and a number of other farms we own, rent, and farm. Therefore, it is very convenient to our farming operations and we wish to consolidate this acreage which we have been renting and farming for many years with our other owned farming operations. We now take crops from approximately 1500 acres (it can change yearly, according to what rented lands are available). This may seem like a lot, but, when there are four families to be supported from this acreage it really is not, so when we have a chance to purchase more acreage close to home, we like to take advantage of that opportunity.

We have no interest in owning the house (or other buildings) on the property as we all have our own homes and are not interested in renting out the house and becoming landlords.

If the Eidt's were to sell the property as a whole, the next owners might have their own plans for the property and then it would not be available to us to rent and to continue farming on it.

Even though it is a smaller acreage, the fact that it is so close and convenient for us, make it a nice asset to consolidate with our existing farming operations.

Sincerely
Dave Zettler



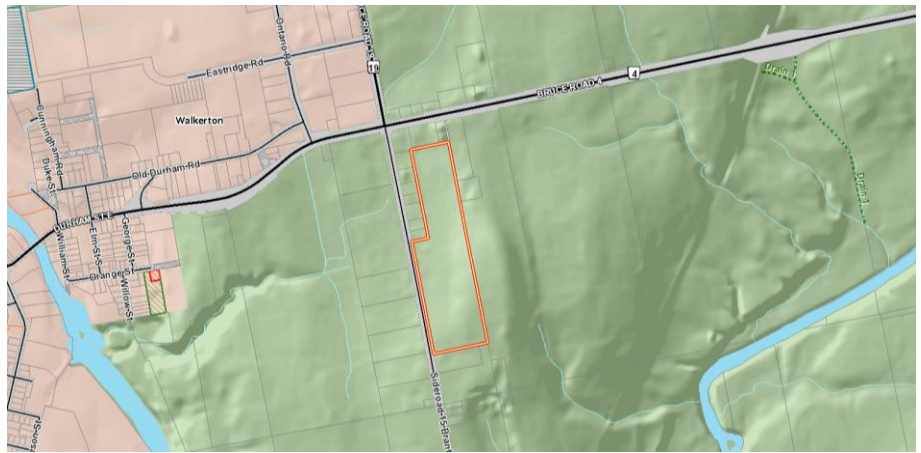
* Map Attached

Appendix 2 - Provincial Policy Statement 2014

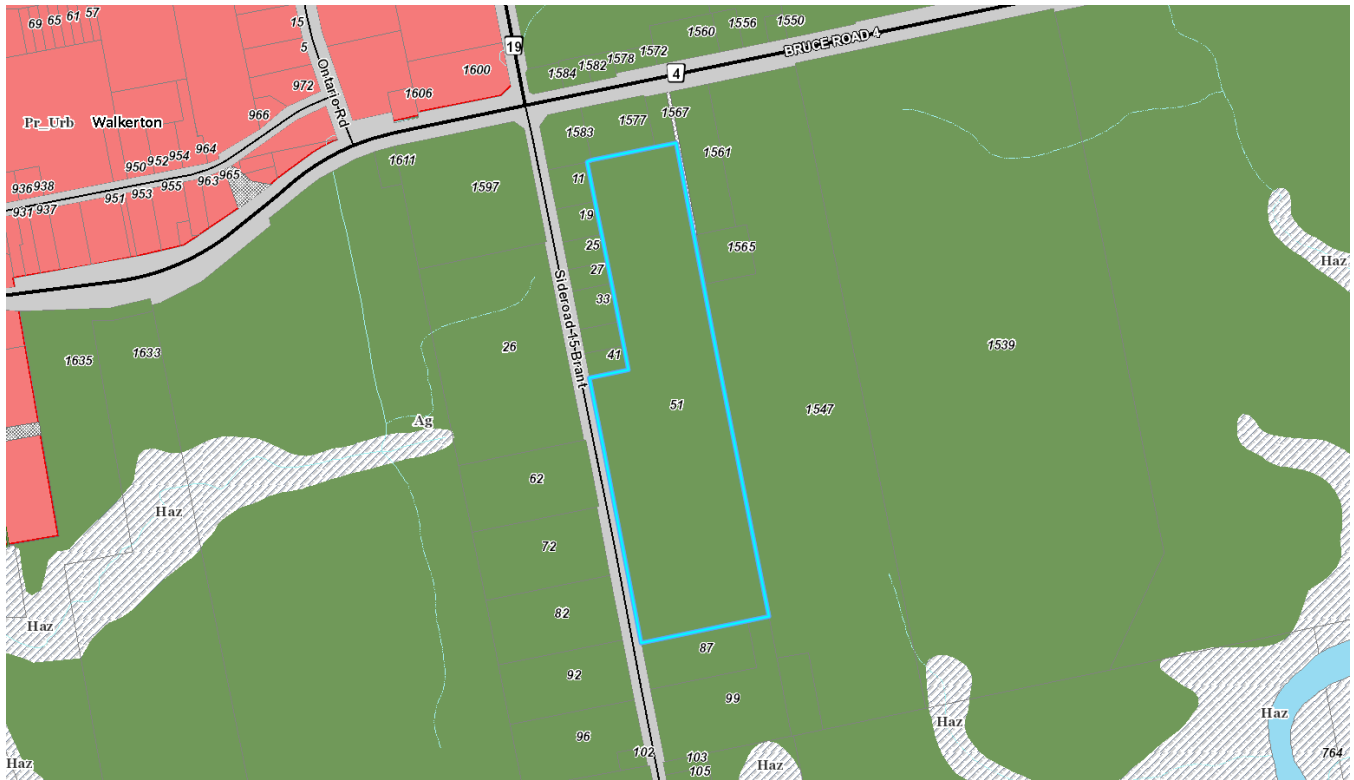
Applies?	Section	Policy	Comment
	1.0	Building Strong Communities	
	1.1	Managing & Directing Land Use To Achieve Efficient Development & Land Use Patterns	
	1.1.3	Settlement Areas	
x	1.1.4	Rural Areas in Municipalities	
	1.2	Coordination	
	1.3	Employment Areas	
	1.4	Housing	
	1.5	Public Spaces, Parks and Open Space	
	1.6	Infrastructure and Public Service Facilities	
	1.6.4	Sewage and Water	
	1.6.5	Transportation Systems	
	1.6.6	Transportation and Infrastructure Corridors	
	1.6.7	Airports	
	1.6.8	Waste Management	
	1.7	Long-Term Economic Prosperity	
	1.8	Energy and Air Quality	
	2.0	Wise Use and Management of Resources	
	2.1	Natural Heritage	
	2.2	Water	
x	2.3	Agriculture	
	2.3.3	Permitted Uses	
x	2.3.4	Lot Creation and Lot Adjustments	
	2.3.5	Removal of Land from Prime Agricultural Areas	
	2.4	Minerals and Petroleum	
	2.4.2	Protection of Long-Term Resource Supply	
	2.4.3	Rehabilitation	
	2.4.4	Extraction in Prime Agricultural Areas	
	2.5	Mineral Aggregate Resources	
	2.5.2	Protection of Long-Term Resource Supply	
	2.5.3	Rehabilitation	
	2.5.4	Extraction in Prime Agricultural Areas	
	2.5.5	Wayside Pits/Quarries, Portable Asphalt Plants / Concrete Plants	
	2.6	Cultural Heritage and Archaeology	
	3.0	Protecting Public Health and Safety	
	3.1	Natural Hazards	
	3.2	Human-made Hazards	

Appendix 3 - Background

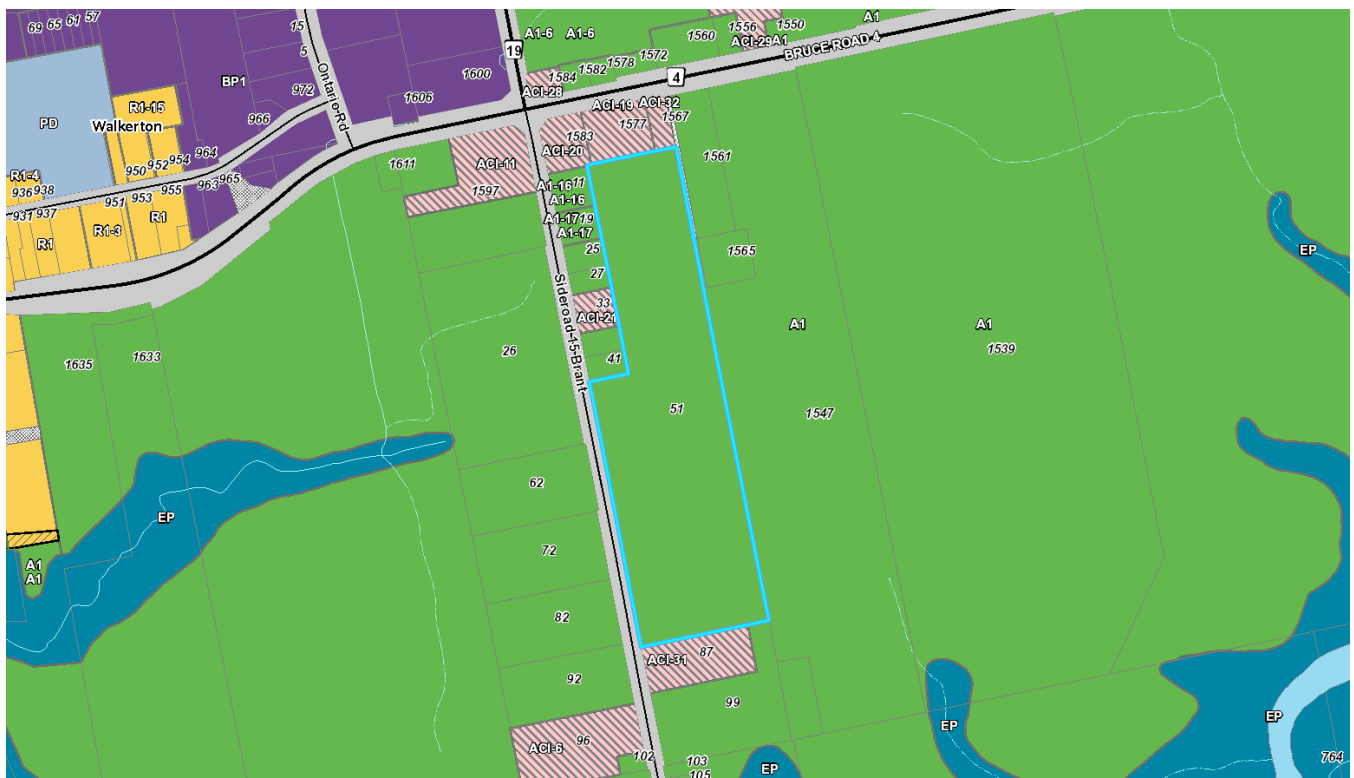
Development Proposal	The purpose of the Official Plan Amendment is to facilitate the severance of a +/- 1.8 acre surplus farm dwelling lot. An Amendment to the Official Plan is required because: more than two lots were previously severed from the Original Crown Lot; and, the retained lot of +/- 29 acres is smaller than 100 acres.
Related Files	Municipality of Brockton Zoning By-law Amendment Z-16-19.34 and County of Bruce Application for Consent B-14-19.34
Owner	William Eidt & Deborah Eidt
Applicant	584653 Ontario Limited (David Zettler)
Legal Description	CON 1 SDR PT LOT 36 RP; 3R3882 PART 1, Geographic Township of Brant, Municipality of Brockton
Municipal Address	51 Sideroad 15 Brant
Lot Dimensions	Entire Lot
Frontage	+/- 413.00 m (1,355 ft)
Width	+/- 737.62 m (2,420 ft)
Depth	+/- 198.12 m (650 ft)
Area	+/- 12.52 ha (30.93 ac)
Lot Dimensions	Retained Lot B-14-19.34
Frontage	+/- 291.10 m (955 ft)
Width	+/- 737.62 m (2,420 ft) (irregular)
Depth	+/- 137.16 m [north] / 198.12 m [south] +/- (450 ft [north] / 650 ft [south])
Area	+/- 11.89 ha (29.38 ac)
Uses Existing	Agricultural
Uses Proposed	No change
Structures Existing	None
Structures Proposed	No new structures proposed
Servicing Existing	None
Servicing Proposed	No new servicing proposed

Lot Dimensions	Severed Lot
Frontage	+/- m (400 ft)
Width	+/- m (400 ft)
Depth	+/- m (200 ft)
Area	+/- 0.74 ha (1.84 ac)
Uses Existing	Residential and Agricultural
Uses Proposed	No change
Structures Existing	House, barn, shop
Structures Proposed	No new structures proposed
Servicing Existing	Private water and septic
Servicing Proposed	No change
Access	Sideroad 15 Brant, A Year Round Municipal Road
County Official Plan	Agricultural Area
Proposed Official Plan	Agricultural Area - Exception
Zoning By-law	‘General Agriculture (A1)’
Proposed Zoning By-law	Rezone the severed lot to recognize any deficient setbacks resulting from the severance and place a nutrient unit restriction on the property; and rezone the retained lot to prohibit a dwelling
Surrounding Land Uses	Commercial and Residential to the North; Industrial and Residential to the South; Agricultural to the East; and Residential and Agricultural to the West.
Subject Lands	

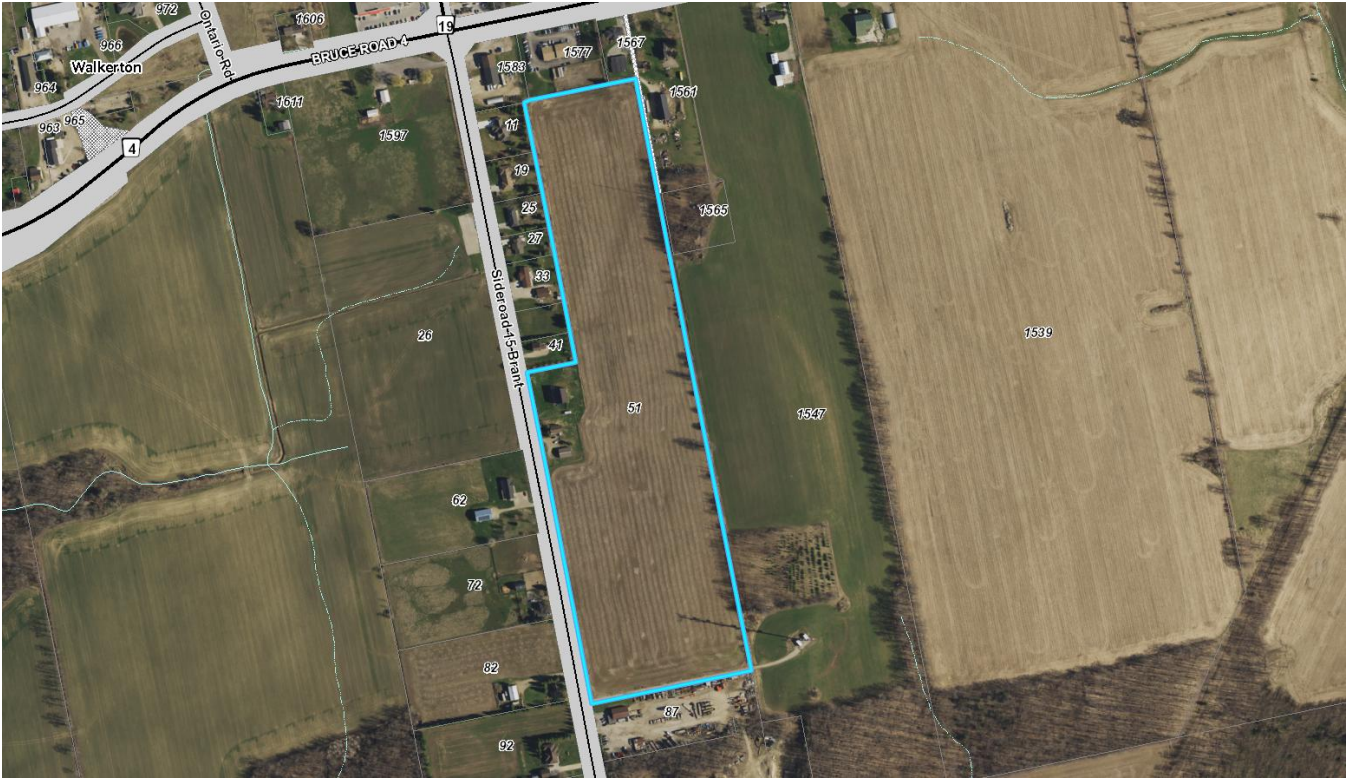
Appendix 4 - Official Plan - Land Use Schedule A



Appendix 5 - Zoning By-law



Appendix 6 - Air Photo



Appendix 7 - Public Comments

From: [Ken Freiburger](#)
To: [Planning Applications Walkerton](#)
Subject: Opposition of Zoning Z-16-19.34
Date: Wednesday, May 29, 2019 12:00:23 PM

Good Afternoon,

This email is in reference to the zoning amendment being put forth by Bill & Deb Eidt. I would like to express my concerns, in regards to this amendment, as I am opposed to the severance as indicated in these letters.

I feel as the property should remain as one, being left as a whole. The property is set up with a barn for horses, and if someone wishes to house livestock in the future, they should have the acreage to go with it. The barn itself, without the acreage is not functional for use. The land has been severed previously many times, and my views are that the property should remain as is. The property can be sold, with the land being rented (should the new owners not require) as it has been for a number of years in the past.

There are two properties within close proximity (Strader's & Stephenson's) which has a barn, as well as, larger acreage to accommodate their livestock.

Another concern I have is that, the new buyer of the land itself, down the road applies for a permit to build a house, thus changing the original intent of this severance. I believe there will be other neighbours in opposition, as the land should remain the same.

Feel free to reach out to me should you have any further questions or concerns.

Thank You,

Ken Freiburger

Freiburger Welding & Machine Shop Ltd.

Phone: 519.881.1932

Email: ken@freiburgerwelding.ca

Address: 96 Side Road 15, R.R.2

Walkerton, Ontario N0G 2V0

Website: www.freiburgerwelding.ca

May 29, 2019

Corporation of the County of Bruce
Planning and Development
30 Park Street, Box 848,
Walkerton, ON N0G 2V0

Re: Proposed Official Plan Amendment (Section 22, Planning Act, 1990)

Related Files: Municipality of Brockton Zoning By-Law Amendment Z – 16-19.34 and County of Bruce
Application for Consent B-14-19.34

Owner: William Edit and Deborah Edit

Applicant: 584653 Ontario Limited (David Zettler)

Municipal Address: 51 Sideroad 15, Brant

As an owner of adjacent property located at 72 Sideroad 15, Brant , I am advising of my strong **objection to this application**. It appears from the information I received on May 27, 2019 (dated May 17, 2019) that my property is shown as residential. It should noted that this property contains as residence but is also used for agricultural purposes and has been for over 45 years in the operation of breeding, selling, and showing horses. This is not a hobby farm and operated as a farm business.

I would like to point out to Counsel and Planners that the property owned by the Edit's is on an extremely busy road which is used as an alternate route to Hanover connecting with the Southline and is extremely busy at all times. This particular road is known to be one of the worst roads in the County for excessive speed even though the posted limit is 50 km. per hour past the property in question. This road **receives very limited speed enforcement** . It is very difficult to safely enter and exit our property with a horse trailer without actually having someone monitoring traffic at the entrance to the property especially when loaded with animals. It is also very dangerous for the feed trucks and other large vehicles entering and exiting our property. Counsel should also be aware that farm vehicles, tractors, tandem wagons etc. also use this road at all hours of the day and night.
To add another driveway to this already busy road would be dangerous and ill advised.

The property in question has already been allowed two severances. I attended the last public meeting along with other property owners who were not in favour of the severance at that time when the Edit's were allowed to sever a piece of their property so the south of Owen King Construction. It was my understanding at that time that the property was for the personal use of Mr. and Mrs. Edit and they agreed at that time to the stipulation of a buffer zone and that the existing bush south of Owen King Construction was to remain. It was the intent for the bush to remain so as not to interfere with the water table due to the number of private wells servicing the existing properties.

2.....

This property was sold by the Edit's and a great deal of the bush removed to allow for another residence and business. It should be noted that a car oiling business had operated across from Freiburger Welding. Access to the oiling pit was gained from the road allowance at the south end of the Edit property. The pit was dug out and vehicles drove over top and I believe used motor oil was used to oil the vehicles at that time. To the best of my knowledge this soil was never cleaned or removed and could be an environmental hazard these many years later. The location of the pit was between the existing house and the first driveway to the south.

It should also be noted that there is an existing water drainage problem along the frontage of the Edit property as well as other properties on the east side of Sideroad 15. The Township has attempted to correct the problem but water continues to pond on the road when there are heavy rains and snow and ice buildup. There is and has always been a large run off of water along the front of this property due to springs in the fields.

This farm property like many other farm land has had old fence lines and large stone piles as well as trees and wire buried to allow for large machinery to work the land. Septic systems and wells should also be a concern when considering this application.

Many years ago there was a small gravel pit on the east side of the bush used by the then owner of the farm and into this hollowed out area, local farm garbage was disposed of. While this occurred many years ago there may be others who grew up in the area that are also aware of this information.

There are many good reasons why this application should not proceed and it is my hope counsel will carefully consider this matter.

Sincerely,

Sheila Stephenson-Muir
P.O. Box 343,
Walkerton, ON OG 2V0

Appendix 8

Draft By-law Number 2019-xx

A by-law to adopt Amendment Number 241

to the County of Bruce Official Plan

Authority is provided in Sections 17 and 21 of the Planning Act, R.S.O. 1990, as amended.

The Council for the Corporation of the County of Bruce enacts By-law 2019-xx as follows:

1. Amendment Number 241 to the County of Bruce Official Plan, attached and forming part of this by-law is approved.
2. That this By-law come into force and take effect on the day of the final passing thereof, subject to the provisions of the Planning Act, R.S.O. 1990, as amended.

Passed this _ th day of _____, 2019

Warden

Donna Van Wyck
Clerk

Part B - The Amendment

Introductory Statement

All of this part of the document entitled “Part B - The Amendment” and consisting of the following text, and attached map designated as Schedule “A”, constitutes Amendment Number 241 to the Bruce County Official Plan.

The Amendment

1. Schedule A: Land Use is amended by adding the following reference to the lands at Con 1 SDR Pt Lot 36 RP 3R3882 Part 1, Geographic Township of Brant, Municipality of Brockton:

‘Section 5.5.13.XX’

2. The Bruce County Official Plan is amended by adding the following subsection to Section 5.5.13 - Exceptions - Agricultural Areas:

“Zettler (OPA 238)

Notwithstanding the policies of Sections 5.5.6 (Farm Size) and 6.5.3 (Consents - Agricultural Areas) of this Plan, the lands described as Site Specific Policy Area 5.5.13.XX on Schedule ‘A’ Land Use Plan, may have a surplus farm dwelling severance that would divide an original Crown surveyed lot into more than two parcels including the retained lot, and may have a retained lot that is undersized.”

Schedule A



Schedule 'A'

to
Amendment N0. 241

Bruce County Official Plan

Concession 1 SDR, Part Lot 36
RP; 3R3882 Part 1
(51 Sideroad 15 Brant)
Municipality of Brockton
(geographic Township of Brant)
County of Bruce



Lands subject to section 5.5.13.XX -
Exceptions - Agricultural Areas

File: BCOPA 241-2019.34
Z-16-2019.34

Applicant: William & Deborah Eldt
c/o 584653 Ontario Limited (David Zettler)

Date: June, 2019