



Staff Report

Report To: Council Meeting
From: Heather James, Planner
Date: 2022-05-26
Subject: Zoning By-law Amendment Application D14 08-2022 – Recommendation Report

Recommendation:

That West Elgin Council hereby receives the report from Heather James, Planner regarding Zoning By-law Amendment Application D14 08-2022 – Part of Lot 6, Concession 10 Recommendation Report (Planning Report 2022-17); and

That West Elgin Council refuse the rezoning of Part of Lot 6, Concession 10.

Purpose:

The purpose of the Zoning By-law Amendment is to rezone the subject lands from Agricultural (A2) Zone to General Agricultural (A1) Zone, in order to permit a single unit dwelling and other A1 Permitted Uses. The A2 Zone permits agricultural uses and prohibits a single unit dwelling.

Background:

Lands zoned A2 have been the subject of a consent for the purposes of disposing a surplus farm dwelling on condition that any subsequent or future dwelling would be prohibited on the remaining lands in accordance with the Provincial Policy Statement (PPS), the County of Elgin Official Plan (CEOP) and the West Elgin Official Plan (OP).

A parcel of land was severed from the northeast corner of the subject lands and is used for rural residential use. A surplus farm dwelling was severed from the subject lands in 2007. As a condition of the severance, the subject lands were rezoned to prohibit a single unit dwelling.

Below is background information from the application, in a summary chart:

Owner:	571419 Ontario Limited
Applicant:	Mike Miller
Legal Description:	Part of Lot 6, Concession 10
Civic Address:	No assigned address
Entrance Access:	Thomson Line
Water Supply:	Existing: None Proposed: Municipal Water Service
Sewage Disposal:	Existing: None Proposed: Private Individual Septic System
Lot Area:	37.33 hectares (92.4 acres)
Lot Frontage:	620.0 metres (2,023.12 feet)

Lot Depth:	606.0 metres (1,988.19 feet)
Use of Lands:	Existing: Agricultural Proposed: Rural residential and agricultural
Buildings and Structures:	Existing: None Proposed: Single storey, single unit dwelling

Figure One below, depicts the subject lands:



The surrounding land uses are as follows:

- North: Agricultural;
- East: Furnival Road, then rural residential and agricultural;
- South: Thomson Line then rural residential and agricultural; and
- West: Agricultural.
-

The zoning sketch is attached to this report as Appendix One for reference purposes.

Financial Implications:

None. Application fees were collected in accordance with the Municipality's Fees and Charges By-law, as amended time to time.

Policies/Legislation:

Planning authorities must have regard to matters of Provincial interest, the criteria of the *Planning Act*, be consistent with the Provincial Policy Statement (PPS) and does not conflict with Provincial Plans. Within the Municipality of West Elgin, they must also make decisions that conform to the County of Elgin Official Plan (CEOP) and Municipality of West Elgin Official Plan (OP) and make decisions that represent good land use planning.

PPS:

The subject lands are within the Agricultural area (Section 2.3). Prime agricultural lands are to be protected for long-term use for agriculture. The PPS requires planning authorities to ensure that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel was through a zoning by-law amendment.

A surplus farm dwelling was severed from the subject lands in 2007. At that time, PPS 2005 was in effect and contained the same policy as the current PPS 2020. The intent to prohibit new residential dwellings from being built on the remnant lands is to protect and preserve farmland from non-agricultural uses. By permitting a new single unit dwelling on the subject lands, agricultural lands will be further fragmented and it will also further challenge neighbouring farm operations to continue their agricultural operations. Lastly, this dwelling has the potential to limit the construction of new livestock facilities and manure storage systems on neighbouring farm parcels.

No development is proposed within the natural heritage (Section 2.3) portion of the property.

Therefore, this proposed Zoning By-law Amendment is not consistent with the PPS.

CEOP:

The subject lands are designated Agricultural Area on Schedule 'A' Land Use in the CEOP. Some of the objectives of the Agricultural Area are to recognize agriculture as the primary activity and land use; maintain and preserve the agricultural resource base of the County; and protect the County's prime agricultural area from fragmentation, development and land uses unrelated to agriculture.

Section E1.2.3.4 b) of the CEOP permits the creation of new lots provided the local Official Plan supports their creation and if the lot is to be created to accommodate a habitable residence that has become surplus to a farming operation as a result of a farm consolidation provided that the development of a new residential use is prohibited on any retained parcel of farmland created by the consent to sever. A surplus farm dwelling was severed from the subject lands in 2007. As a condition of severance, the retained parcel of farmland was rezoned to prohibit the development of a new residential use.

By permitting a new single unit dwelling on the subject lands, the goals of the Agricultural Area will not be achieved and the intent of Policy E1.2.3.4 b) will no longer be in effect.

No development is proposed within and adjacent to lands of the Natural Heritage (Section D1.2) area of the subject lands.

Therefore, this proposed Zoning By-law Amendment does not conform to the CEOP.

OP:

The subject lands are designated as Agricultural, as shown on Rural Area Land Use and Transportation Schedule 'E' of the OP. Some of the goals in the Agricultural designation are to preserve and protect prime agricultural land for agricultural purposes, maintain agriculture as the

predominant use of land and enable farmers the freedom and flexibility to operate effectively and efficiently without undue interference from the intrusion of non-agricultural, conflicting uses.

Section 6.2.9 policies of the OP, state that the creation of a lot for the purposes of disposing of a dwelling considered surplus as a result of farm consolidation, being the acquisition of additional farm parcels to be operated as one farm operation, shall considered provided no new or additional dwelling is permitted in the future on the remnant parcel which shall be ensured through an amendment to the Zoning By-law. By permitting a new single unit dwelling on the subject lands, the goals of the Agricultural designation will not be achieved and the intent of Section 6.2.9 will no longer be in effect.

No development is proposed within the natural heritage portion of the property.

Therefore, this proposed Zoning By-law Amendment does not conform to the OP.

Circulation Of The Application:

The application was circulated to the applicable commenting agencies and neighboring property owners within 120 meters of the subject lands on May 5, 2022, 21 days prior to the public meeting (minimum 20 days required).

Additional information related to the application is available on the website:

<https://www.westelgin.net/en/business-and-development/current-planning-applications.aspx#D14-08-2022---Zoning-By-law-Amendment---Part-Lot-6-Concession-10-Thomson-Line>

Municipal Department Comments:

The zoning by-law amendment application was circulated to municipal staff for comment. No comments were received.

Agency Comments:

The zoning by-law amendment application was circulated to the Agencies for comment. The following comments were received:

Lower Thames Valley Conservation Authority

Lower Thames Valley Conservation Authority, in their May 13, 2022, letter noted the following:

- After reviewing our files and mapping, staff determined that the property in question is subject to the Authority's Development and Alteration to Watercourses portion of the regulations. The issue of concern in this area is the Felder Drain, the natural watercourse their associated ravine systems and erosion.
- An application from this office is required prior to any works/construction taking place within the regulated area. The lands are not subject to flooding of a general nature and therefore the flood proofing of structures on the property is not required. However, the flood proofing of structures for the purposes of prevention of flood damage from local drainage waters is always recommended. Setbacks from the waterways will be required to any proposed works/structure(s)/site alteration.

Planning Staff has no issues or concern with the Lower Thames Valley Conservation Authority comments, as the comments can aid the Applicant with their proposal and does not impact the proposed zoning by-law amendment, as proposed.

Elgin Federation of Agriculture

Elgin Federation of Agriculture (EFA), in their May 19, 2022, letter noted the following:

- The EFA opposes the proposed zoning application and the creation of new residential lots in an agricultural area. Creating lots leads to farm fragmentation and loss of farmland. Five percent of Ontario's land base is suitable for agriculture. Municipalities must continue to prioritize agricultural land, maintaining large, continuous tracks of agricultural land.
- The proposed rezoning would effectively sterilize important farmland, create conflicts later, and introduce long-term incompatible land uses. Ontario Agriculture works best when there are no constraints from neighbouring non-agriculture uses.
- Prime Agriculture lands are not an unlimited resource; we cannot sustain continuing losses of agricultural land and still meet the ability to produce food, fibre, and fuel. The EFA favours the use of the many existing policies available for Municipalities to address dwellings on farm properties that do not interfere with agricultural operations.

The letter also included additional points and a policy discussion, which can be found in Appendix Two. Planning Staff have reviewed the letter from Elgin Federation of Agriculture and have no additional comments.

Public Comments:

At the time of subject of this report, no written comments from the public have been received related to the zoning by-law amendment.

Summary/Conclusion:

Therefore, it is Planning Staff's opinion that the proposed Zoning By-law Amendment is not consistent with the PPS, does not conform to the CEOP and does not conform to the OP; and recommends that the request for Zoning By-law Amendment be refused.

Once a Council decision is made, Notice will be sent to those who have requested a copy and/or attended the public meeting or provided written comments.

There will be a 20 day appeal period after the Notice is sent out. Any appeals received by the Municipality of West Elgin will be forwarded to the Ontario Land Tribunal (formerly the Local Planning Appeal Tribunal) for a hearing, in accordance with the Planning Act.

Respectfully Submitted,

Heather James, MES (Pl.), MCIP, RPP
Planner
Municipality of West Elgin

Report Approval Details

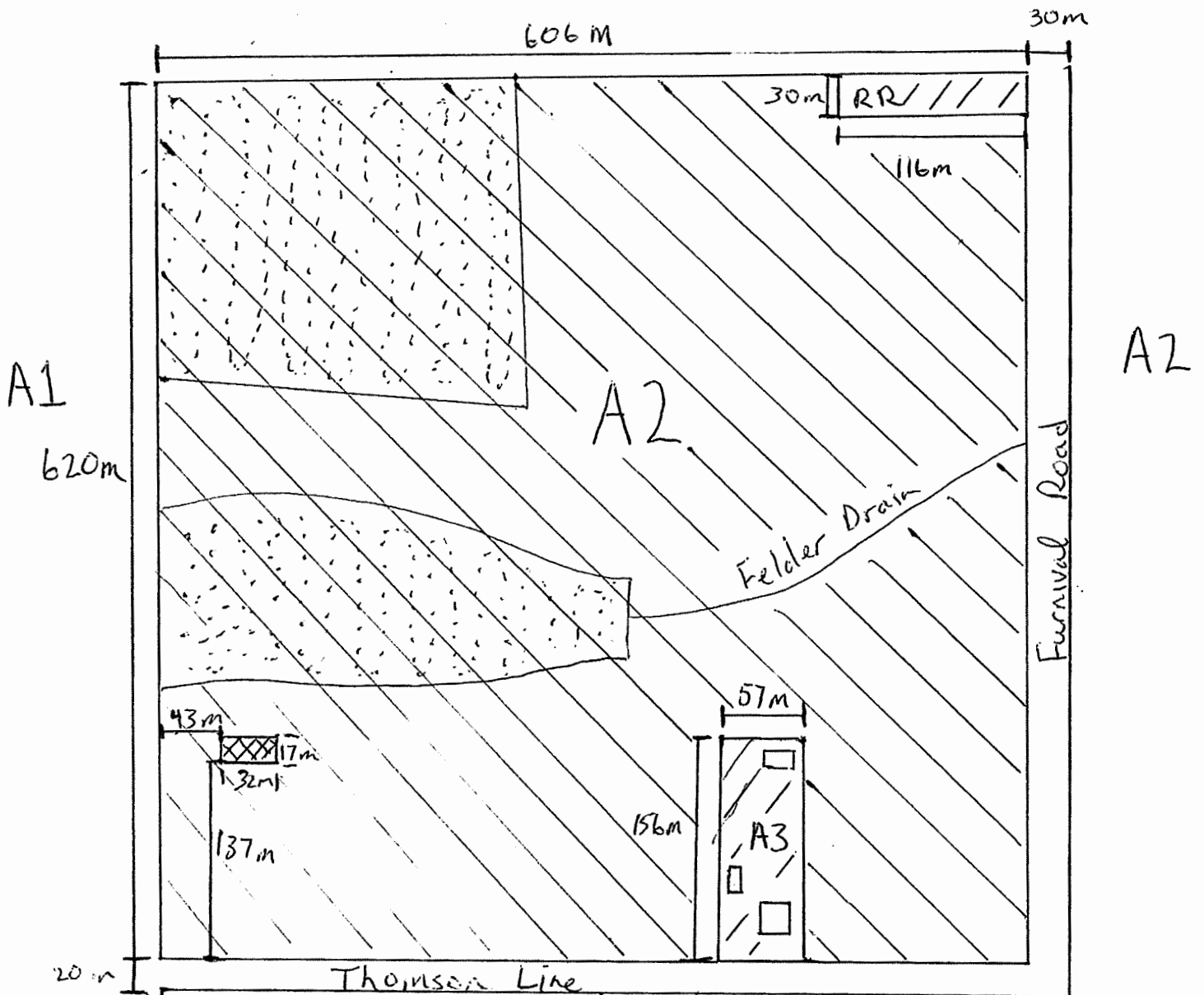
Document Title:	Zoning By-law Amendment Application D14 08-2022 - Recommendation Report - 2022-17-Planning.docx
Attachments:	- Planning Report 2022-17 Appendix One - Zoning Sketch.pdf - Planning Report 2022-17 Appendix Two - EFA Comments.pdf
Final Approval Date:	May 24, 2022

This report and all of its attachments were approved and signed as outlined below:

Jana Nethercott

PLANNING REPORT 2022-17
APPENDIX ONE: ZONING SKETCH





A1



A2

A3

Legend 1cm = 43 m

-  Previously severed
-  Proposed amendment
-  Bush lot
-  Proposed Dwelling

PLANNING REPORT 2022-17 APPENDIX TWO - AGENCY COMMENTS



To: Heather James

Attn: Municipality of West Elgin Council

Re: Elgin Federation of Agriculture (EFA) Public Comments regarding Zoning Amendment File D14-08-2022

The Elgin Federation of Agriculture (EFA) represents the Ontario Federation of Agriculture (OFA) in Elgin County. We support our members and the agri-food industry to ensure our rural communities are consulting and considering legislation that impacts the sustainability of farm business operations in Elgin County.

The EFA opposes the proposed zoning application and the creation of new residential lots in an agricultural area. Creating lots leads to farm fragmentation and loss of farmland. Five percent of Ontario's land base is suitable for agriculture. Municipalities must continue to prioritize agricultural land, maintaining large, continuous tracks of agricultural land.

Canada's 2021 census of agriculture counted 189,874 farms, a moderate decrease of 1.9% from 2016. Farms in Canada reported a 3.2% decrease in total farm area from 2016 to 92.9 million acres in 2021. **OMAFRA's** data collected from the **2016 Census of Agriculture**, from 1996 to 2016, Ontario lost 1.5 million acres of farmland to development, at a daily rate of loss of 175 acres per day

The Provincial Policy Statement (PPS) offers limited options for lot creation in prime agricultural areas. New residential lot creation was removed from the **PPS** in 2005. The **Provincial Policy Statement 2020 section 2.3.4.1 (a-d)** discourages the creation of lots in prime agricultural areas and may only be permitted for:

Lot creation in prime agricultural areas is discouraged and may only be permitted for: a) agricultural uses, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations; b) agriculture-related uses, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; c) a residence surplus to a farming operation as a result of farm consolidation, provided that: 1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and 2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective; and d) infrastructure, where the facility or corridor cannot be accommodated through the use of easements or rights-of-way

PPS (2020) section 2.3.4.3 prohibits the creation of new residential lots in prime agricultural areas shall not be permitted, except in accordance with policy 2.3.4.1(c).

Planning act RSO1990 Part I 2 (b) legislates Municipal Councils to protect agriculture resources.

(b) the protection of the agricultural resources of the Province.

The **County of Elgin Official Plan (2015) section E.12.3** further excludes consent for lot creation.

The approval of consents to sever land in Elgin County shall be in conformity with the relevant policies contained in this Plan, policies contained in local Official Plans, and the provisions of the Planning Act. Under no circumstances shall consent be granted for approval that is contrary to the policies of this Plan or the local Official Plan.

Allowing lot creation in prime agricultural areas creates poor planning and scattered development. The proposed rezoning would effectively sterilize important farmland, create conflicts later, and introduce long-term incompatible land uses. Ontario Agriculture works best when there are no constraints from neighbouring non-agriculture uses.

We recognize the benefit of having additional housing opportunities to provide additional support for family-owned farms; however, farm operations do not need lot creation to achieve this goal. We have existing tools to add more housing on existing farm parcels without the need to sever lots down the line; we note **section 39.1 of the Planning Act** authorizes the temporary use of a "garden suite" as an example. Additionally, the **More Homes, More Choice Act, 2019** removed barriers for Municipalities to permit a wide array of additional residential units in their Official Plans and Zoning Bylaws.

Prime Agriculture lands are not an unlimited resource; we cannot sustain continuing losses of agricultural land and still meet the ability to produce food, fibre, and fuel. The EFA favours the use of the many existing policies available for Municipalities to address dwellings on farm properties that do not interfere with agricultural operations.

Regards,

Elgin Federation of Agriculture Land Use Committee

Fons Vandebroek, fonsheather@gmail.com

Melissa Schneider, melissa_e_schneider@hotmail.com