

## Staff Report 2019-0188

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Meeting Date: October 22, 2019

Subject: Proposed Zoning By-law Amendment Application, John & Ruth Downey, 13471 Heart Lake Road, Part Lot 25 Concession 3 EHS, (Ward 2)

Submitted By: Rob Hughes, Manager of Development - West, Planning & Development, Community Services

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### RECOMMENDATION

That the By-law attached as Schedule C to Staff Report 2019-0188 be enacted to amend Comprehensive Zoning By-law 2006-50, as amended, to Agricultural Exception 621 (A1-621), Rural Residential Exception 622 (RR-622) and Environmental Policy Area 1 (EPA1) to implement zoning as prescribed through conditions connected with a provisional consent approved by the Local Planning Appeal Tribunal; and,

That, in accordance with Section 34(17) of the *Planning Act*, no further notice is required to be provided on the proposed By-law; and,

That applications for minor variances for the lands as identified in Schedule A attached to Staff Report 2019-0188, be permitted prior to the second anniversary of the passing of any implementing Zoning By-law Amendment, pursuant to Section 45 (1.4) of the *Planning Act*.

### REPORT HIGHLIGHTS

- An application to consider a proposed Zoning By-law Amendment application for lands located at 13471 Heart Lake Road, filed in response to a condition of a provisional consent approval as issued by the Local Planning Appeal Tribunal, was received on February 22, 2019.
- A formal Public Meeting was held on May 21, 2019 in accordance with the requirements of the *Planning Act* and the comments derived from the Public Meeting, external agencies and internal departments have been taken into consideration in the drafting of this report.
- Planning staff is of the opinion that the proposal is consistent with Provincial, Regional and local policy documents, and recommends that the implementing Zoning By-law be approved by Council.

### DISCUSSION

The purpose of this report is to consider a proposed Zoning By-law Amendment application for lands located at 13471 Heart Lake Road, filed in response to a condition of a provisional consent approval as issued by the Local Planning Appeal Tribunal (LPAT, formerly Ontario Municipal Board).

## **Subject Lands**

The subject lands, having an area of 19.95 ha, are located on the west side of Heart Lake Road and south of King Street (see Schedule A). A detached dwelling exists on the lands, of which the remainder is farmed. Surrounding the property are lands utilized for either rural residential purposes or in agricultural production. Neighbouring lands form part of a farming operation that is owned and managed by the Downey family, for which it has been determined that the house on the subject lands is surplus to the needs of the larger farming operation.

## **Background Information**

The lands were originally subject to an application for consent before the Town's Committee of Adjustment to sever the existing dwelling from the property, for which a hearing took place on February 10, 2016. As the proposal was not in keeping with Provincial, Regional and Town planning policies, staff had recommended refusal. Notwithstanding, the application was approved by the Committee. This decision was subsequently appealed by the Town to the LPAT, through the direction of Council.

In advance of a hearing taking place, a Council ratified settlement was reached between the applicant, Town and Toronto Region Conservation Authority (TRCA). The basis of the settlement was that the context of the application had changed from a standard severance to being a severance for a residence surplus to a farming operation, in addition to accounting for TRCA regulated lands on the property. A Hearing took place before the LPAT on August 30, 2018. At the hearing, evidence in support of the matter was provided by a Planner representing the applicant. An oral decision was issued the day of the hearing by the LPAT to allow the appeal, to issue provisional consent subject to conditions. This was subsequently followed by a written decision issued on June 20, 2019. A condition of the decision prescribes that the applicant obtain a Zoning By-law Amendment to ensure no new residential dwellings will be permitted on the retained lands, and to recognize the lot size and frontage for the lands to be conveyed. The subject application has been filed to address this condition.

## **Proposed Development**

The proposed application as filed is to amend the Zoning By-law for the subject lands from Agricultural (A1) to Agricultural (A1-X) Exception Zone, Agricultural (A1-XX) Exception Zone, and Environmental Policy Area 1 (EPA1-XX) Exception Zone. Specifically, the application prescribes for the following:

1. Prohibition of any dwelling construction on the retained portion of the severed lot;
2. Identification of the limits of the Environmental Policy Area 1 Zone to include the existing floodplain;
3. Recognition of the minimum lot area of the severed parcel containing the existing dwelling.

## **Planning Review**

Documents that have been considered by the Town in its review of the subject application include the applicable Provincial policies, Region of Peel Official Plan, the Town's Official Plan and Zoning By-law 2006-50, as amended. Supporting technical studies and reports as well as comments and recommendations provided by internal departments, external review agencies and the public informed the review of this application.

### Provincial Policy Statement (PPS), 2014

The Provincial Policy Statement provides policy direction on matters of Provincial interest regarding land use planning and development. The PPS focusses growth within defined Settlement Areas and away from significant or sensitive resources and areas, including agricultural lands. Accordingly, the PPS discourages lot creation in prime agricultural areas. The exception to this are severances for a residence surplus to a farming operation as a result of farm consolidation, provided the planning authority ensures that no new residential dwellings are permitted on the remnant parcel of farmland created by the severance, and that the new residential lot is limited in size to accommodate the use and appropriate servicing. Through the associated LPAT hearing, it was determined the above tests had been met, subject to the appropriate zoning measures coming into effect. Staff is of the opinion that the proposal is consistent with the 2014 PPS.

### Place to Grow, Growth Plan for the Greater Golden Horseshoe (2019)

The Growth Plan provides policies that speak to developing compact and complete communities by directing growth to built-up areas and promoting a mix of residential and employment uses. The Plan does not contain any specific farm consolidation or surplus farm severance policies, however the document does prescribe that the prime agricultural area be designated for long term agricultural use. Accordingly, the proposed amendment conforms to and does not conflict with A Place to Grow, Growth Plan for the Greater Golden Horseshoe.

### Region of Peel Official Plan (ROP)

The subject lands are shown as Rural System on Schedule D, Regional Structure in addition to being identified on Schedule B as Prime Agricultural Area. Amendments are to be consistent with the goals and objectives as set out in the Regional Plan, which directs sustainable development growth that balances ecological, social and economic responsibilities. Lot creation is only permitted in accordance with Provincial policies. Region of Peel staff have advised of no objection to the proposed rezoning, subject to clearance from TRCA (see below under Agency/Department Consultation for a review of TRCA comments).

### Town of Caledon Official Plan (OP)

The Official Plan designates the subject lands as Prime Agricultural Area on Schedule 'A'. The OP supports a variety of land-based activities such as agriculture, of which it is a goal of the document to preserve agricultural lands to maintain a viable farming community.

Accordingly, the creation of new lots in prime agricultural areas is discouraged to limit land fragmentation and conserve large parcels of agricultural properties for farming. Exceptions do include a residence surplus to a farming operation following farm consolidation. The OP contains provisions that pertain to consents granted for a lot with a surplus dwelling that must be abided by, which speak to lot location, limiting of the lot area, reasonable buffers from adjoining land uses, and Minimum Distance Separation. Through the associated LPAT hearing, it was determined the above tests had been met, subject to the appropriate zoning measures coming into effect, which will prohibit the construction of a new residential dwelling on the retained agricultural parcel consolidated with the Downey farm operation.

The opportunity of a severance for a residence surplus to a farm operation is supportive of the farming community, as it maintains agriculture as a predominant use of the lands, facilitates farm viability and efficiency through expansion and consolidation of properties, and removes the burden of maintaining, insuring and managing unnecessary dwellings. Staff is of the opinion that the proposed Zoning By-law Amendment application is in keeping with the policies of the Town's Official Plan.

Zoning By-Law 2006-50, as amended

The subject lands are zoned Agricultural (A1) with the exception of a small strip of the lands along the northern property line which is zoned Environmental Policy Area 2 (EPA2). Staff have reviewed the application, and are recommending the following zoning provisions for the lands, consistent with the provisional consent decision issued by LPAT (see Schedule B for details):

1. The severed parcel containing the existing dwelling be zoned Rural Residential Exception 622 (RR-622) with exceptions to reflect minimum lot area and width of the existing driveway.
2. The retained parcel containing the following zones:
  - a. Environmental Policy Area 1 (EPA1) zone for those lands that are regulated by TRCA, consistent with their settlement recommendations on the application. The EPA1 zone category is prohibitive of a residence;
  - b. Agricultural Exception 621 (A1-621) zone for all other lands with exceptions to restrict the permitted uses on the lands (no listed residential uses including a detached dwelling), and to recognize a minimum lot area.

As the above differs from what was reported at the Public Meeting for the application, staff are recommending that, in accordance with Section 34(17) of the *Planning Act*, no further notice is required to be provided on the proposed By-law.

Agency/Department Consultation

The subject application was circulated to external agencies and internal departments for review and comment. All agencies and departments have advised they have no objections to the application.

Toronto Region Conservation Authority: The TRCA was a party to the above referenced LPAT hearing for the consent. TRCA staff have advised that they are satisfied that the proposed lot has been located outside of the Regulatory Floodplain, and that through implementation of this Zoning By-law Amendment appropriate assurances are being applied to manage both existing and future risks associated with the Regulatory Floodplain on the subject lands. Accordingly, they have no concerns with this application.

Public Meeting and Resident Meetings

A public meeting was held on the proposed Zoning By-law Amendment application at the Town of Caledon, Town Hall on May 21, 2019. Notice of the Public Meeting was advertised in the Caledon Citizen and Caledon Enterprise on April 25, 2019. Property owners within 120m (400 ft) of the subject lands were advised of the meeting by direct mail as required by the *Planning Act*.

The purpose of the Public Meeting was to provide the Applicant an opportunity to present the proposal to the Public and Members of Council and to respond to questions on the proposals. No members of the public spoke towards the matter at the Public Meeting and no written correspondence was received regarding the file from members of the public.

**FINANCIAL IMPLICATIONS**

The property at 13471 Heart Lake Road is currently assessed as Residential & Farmland. The Town's share of property taxes based on current value assessment is approximately \$3,100. As at October 11, 2019 the property tax account is determined to be current. If the proposed changes were to proceed as planned, the taxable assessment value of the property may change, to reflect the development that would have taken place. The comments above are as at October 11, 2019 and are based upon information provided to the Town by the applicant, and current By-laws in effect. Any comments provided will be updated based upon future By-laws and rates in effect at the time of, or prior to final approvals.

**COUNCIL WORK PLAN**

- Connected Community - Support for agriculture and the agribusiness industry including advocating for natural gas service extension to agricultural properties.

**ATTACHMENTS**

Schedule A - Location Map



**Staff Report 2019-0188**

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Schedule B - Draft Zoning By-law Amendment  
Schedule C - Agency & Department Comment Sheet