



## The Corporation of the Township of Malahide

### A G E N D A

October 6, 2022 – 7:30 p.m.

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**Springfield & Area Community Services Building  
51221 Ron McNeil Line, Springfield**

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**\*\* Note:** At this time, seating capacity is limited and those individuals with matters pertaining to agenda items will be prioritized for in person attendance.  
The meeting is also streamed live on YouTube and available after for viewing.

- (A) Call Meeting to Order
- (B) Disclosure of Pecuniary Interest
- (C) Approval of Previous Minutes **RES 1 (Pages 8-17)**
- (D) Presentations/Delegations/Petitions
  - Court of Revision - McDonald Drain Branch relating to property at parts of Lot 11, Concession 1, in the Township of Malahide **RES 2-5**
  - Presentation – Spriet Associates - 2022 Ontario Structure Inspection Manual Results **RES 6**
  - Public Meeting – Zoning By-law Amendment – Applicant, Cyril J. Demeyere Limited on behalf of Hope Creamery, relating to property at Part of Lot 25, Concession 8 N, 51681 College Line **RES 7-9 (Pages 18-62)**
  - Public Meeting – Zoning By-law Amendment – Applicant, SBM Ltd. (c/o Simona Rasanu) on behalf of William and Katherine DeSutter, relating to property at Part Lot 103, Concession STR, as in E199915 (Parcel 2), 52339 Talbot Line **RES 10-12 (Pages 63-109)**

- Public Meeting – Zoning By-law Amendment – Applicant, SBM Ltd. (c/o Simona Rasanu) on behalf of Henry Hiebert, relating to property at Part Lot 33, Concession 4 S, 53008 Calton Line **RES 13-15 (Pages 110-139)**

(E) Reports of Departments

- (i) Director of Fire & Emergency Services
  - Emergency Management – Ice Breaking Services 2023 **RES 16 (Pages 140-141)**
- (ii) Director of Public Works
- (iii) Director of Finance/Treasurer
  - Pipeline Property Tax Report **RES 17 (Pages 142-143)**
- (iv) Clerk
  - RFP Results – County of Elgin RFP No. 2022 P36 – Integrity Commissioner Services with Closed Meeting Investigator and Ombudsman Options **RES 18 (Pages 144-185)**
- (v) Building/Planning/By-law
- (vi) CAO
  - Request to Purchase Township Property – Century Line Closed Road Allowance **RES 19 (Pages 186-190)**
  - Port Bruce Flooding, February 17<sup>th</sup> & 18<sup>th</sup> 2022 – Subsequent Update Report (Part 2) **RES 20 (Pages 191-202)**

(F) Reports of Committees/Outside Boards

(G) Correspondence **RES 21**

1. Association of Municipalities of Ontario - Watch File – dated September 15, 2022. September 22, 2022 and September 29, 2022. **(Pages 2-10)**
2. County of Elgin – Council Highlights – September 14, 2022. **(Pages 11-16)**
3. Kettle Creek Conservation Authority – 2023 Levy Projections and 2023 Membership. **(Pages 17-23)**
4. Town of Aylmer – Notice of Application & Public Meeting:
  - Part of Lots 85 & 86, Concession NTR and Part of Block W Plan Registered Plan 164, Town of Aylmer (geographic Township of Malahide). **(Pages 24-26)**

5. Municipality of East Ferris – Resolution seeking support for further safety protection protocols for students while riding on school buses. **(Pages 27-28)**
6. Municipality of Grey Highlands – Resolution seeking support for increasing the fines for all levels of speeding. **(Page 29)**

(H) Other Business

(I) By-laws

- (i) By-law No.22-74 – Hillside Kennels Animal Control Ltd. **RES 22(Page 203)**

(J) Closed Session

(K) Confirmatory By-law **RES 23 (Page 204)**

(L) Adjournment **RES 24**

***\*\*VIDEOCONFERENCE MEETING***

**Note for Members of the Public: IMPORTANT**

Please note that the Regular Council Meeting scheduled to be held on October 6, 2022 will be via videoconference with limited seating for presenters, the press and the public.

Please note that, at this time, there is not an option for the public to call in to this meeting. However, we will be livestreaming the Council Meeting via YouTube. [Please click here to watch the Council Meeting.](#)

Written comments regarding the Council Agenda items are welcome – please forward such to the Clerk at [aadams@malahide.ca](mailto:aadams@malahide.ca).

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*PLEASE NOTE that the draft resolutions provided below DO NOT represent decisions already made by the Council. They are simply intended for the convenience of the Council to expedite the transaction of Council business. Members of Council will choose whether or not to move the proposed draft motions and the Council may also choose to amend or defeat them during the course of the Council meeting.*

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1. THAT the minutes of the regular meeting of the Council held on September 15, 2022, be adopted as printed and circulated.
2. THAT the Council of the Township of Malahide does hereby appoint the following members to sit on the Court of Revision for the McDonald Drain Branch E:  
  
Mayor Dave Mennill (Chair)  
Deputy Mayor Dominique Giguère  
Councillor Scott Lewis
3. THAT the Court of Revision for the McDonald Drain Branch E be called to order at 7: p.m.  
  
AND THAT Dave Mennill be appointed Chairman.
4. THAT the Court of Revision members for the McDonald Drain Branch E do hereby accept the recommendations of Drainage Engineer George Vereyken, Spriet Associates London Limited; and further, does hereby confirm the drainage assessments as outlined in the Report of the Drainage Engineer dated August 5, 2022.
5. THAT the Court of Revision relating to the McDonald Drain Branch E be adjourned and the Council Meeting reconvene at 7: p.m.
6. THAT the presentation received from George Vereyken, of Spriet Engineering, relating to the 2022 Ontario Structure Inspection Manual Results, be received.
7. THAT the Public Meeting concerning the Zoning By-law Amendment Application No. D14-Z09-22 of Hope Creamery, relating to the property located at Part Lot 25, Concession 8 N; and known municipally as 51681 College Line; be called to order at 7: \_\_p.m
8. THAT the Public Meeting concerning the Zoning By-law Amendment Application No.D14-Z09-22 of Hope Creamery, relating to the property located at Part Lot 25, Concession 8 N; and known municipally as 51681 College Line; be adjourned and the Council reconvene at 7: \_\_p.m



9. THAT Report No. DS-22-32 entitled “Zoning By-law Amendment Application of Hope Creamery” be received;

AND THAT the Zoning By-law Amendment Application No. D14-Z09-22 of Hope Creamery, relating to the property located at relating to the property located at Part Lot 25, Concession 8 N; and known municipally as 51681 College Line, BE APPROVED for the reasons set out in this Report.

10. THAT the Public Meeting concerning the Zoning By-law Amendment Application No. D14-Z12-22 of William and Katherine DeSutter, relating to the property located at Part Lot 103, Concession STR, as in E199915 (Parcel 2) and known municipally as 52339 Talbot Line; be called to order at 7: \_\_p.m

11. THAT the Public Meeting concerning the Zoning By-law Amendment Application No. D14-Z12-22 of William and Katherine DeSutter, relating to the property located at Part Lot 103, Concession STR, as in E199915 (Parcel 2) and known municipally as 52339 Talbot Line; be adjourned and the Council reconvene at 7: \_\_p.m

12. THAT Report No. DS-22-35 entitled “Zoning By-law Amendment Application of William and Katherine DeSutter” be received;

AND THAT the Zoning By-law Amendment Application No. D14-Z12-22 of William and Katherine DeSutter, relating to the property located at Part Lot 103, Concession STR, as in E199915 (Parcel 2) (52339 Talbot Line), BE APPROVED for the reasons set out in this Report.

13. THAT the Public Meeting concerning the Zoning By-law Amendment Application No. D14-Z13-22 of Henry Hiebert, relating to the property located at Part Lot 33, Concession 4 and known municipally as 53008 Calton Line; be called to order at 7: \_\_p.m

14. THAT the Public Meeting concerning the Zoning By-law Amendment Application No. D14-Z13-22 of Henry Hiebert, relating to the property located at Part Lot 33, Concession 4 and known municipally as 53008 Calton Line; be adjourned and the Council reconvene at 7: \_\_p.m

15. THAT Report No. DS-22-41 entitled “Zoning By-law Amendment Application of Henry Hiebert” be received;

AND THAT the Zoning By-law Amendment Application No. D14-Z13-22 of Henry Hiebert, relating to the property located at Part Lot 33, Concession 4 S (53008 Calton Line), BE APPROVED for the reasons set out in this Report.

16. THAT Report No. F- 22-13 entitled “Emergency Management – Ice Breaking Services 2023” be received;

THAT Malahide Township, secures under contract a Drag Line on site from January 1, 2023 to March 31, 2023;

AND THAT the Long Arm Excavator also be contracted with a 2 hour call in of the time of notification from January 1, 2023 to March 31, 2023.

17. THAT Report No. FIN 22-23 entitled “Pipeline Property Tax” be received.

18. THAT Report CLERK-22-11 entitled “RFP Results – County of Elgin RFP No. 2022 P36 – Integrity Commissioner Services with Closed Meeting Investigator and Ombudsman Options” be received;

AND THAT the Council agrees to enter into a 2-year agreement with Aird & Berlis LLP for Integrity Commissioner, Closed Meeting Investigator and Ombudsman Services;

AND THAT the appropriate authorizing by-law be brought forward for Council’s consideration.

19. THAT Report No. CAO-22-14 entitled “Request to Purchase Township Property – Century Line Closed Road Allowance” be received;

AND THAT Council adopt by-law no. 22-76 authorizing the Mayor and the Clerk to execute all documents in connection with the closing and stopping up of a portion of the Century Line Closed Road Allowance, together with all documents necessary to effect the sale of same to M&W Abel.

20. THAT Report No. CAO-22-13 entitled “Port Bruce Flooding, February 17th & 18th, 2022 – Subsequent Update Report (Part 2) be received.

21. THAT the following correspondence be noted and filed:

1. Association of Municipalities of Ontario - Watch File – dated September 15, 2022. September 22, 2022 and September 29, 2022. **(Pages 2-10)**
2. County of Elgin – Council Highlights – September 14, 2022. **(Pages 11-16)**
3. Kettle Creek Conservation Authority – 2023 Levy Projections and 2023 Membership. **(Pages 17-23)**
4. Town of Aylmer – Notice of Application & Public Meeting:  
–Part of Lots 85 & 86, Concession NTR and Part of Block W Plan  
Registered Plan 164, Town of Aylmer (geographic Township of Malahide).  
**(Pages 24-26)**
5. Municipality of East Ferris – Resolution seeking support for further safety protection protocols for students while riding on school buses. **(Pages 27-28)**

6. Municipality of Grey Highlands – Resolution seeking support for increasing the fines for all levels of speeding. **(Page 29)**

22. THAT By-law No. 22-74 being a By-law to authorize the execution of an agreement with Hillside Kennels Animal Control Ltd. for the use of its Canine Control and Pound Keeper Services by the Township, be given first, second and third readings, and be properly signed and sealed.

23. THAT By-law No. 22-75, being a Confirmatory By-law, be given first, second and third readings, and be properly signed and sealed.

24. THAT the Council adjourn its meeting at \_\_\_\_\_ p.m. to meet again on October 20, 2022, at 7:30 p.m.

**The Corporation of the Township of Malahide****September 15, 2022 – 7:30p.m.**Virtual Meeting - <https://youtu.be/jBSWsttP7Rc>

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The Malahide Township Council met at the Springfield & Area Community Services Building, at 51221 Ron McNeil Line, Springfield, at 7:30p.m. Seating capacity is limited and those individuals with matters pertaining to agenda items were prioritized for in person attendance. The following were present:

**Council:** Deputy Mayor D. Giguère, Councillor M. Widner, Councillor R. Cerna, Councillor S. Lewis and Councillor C. Glinski.

**Staff:** Chief Administrative Officer A. Betteridge, Clerk A. Adams, Director of Public Works M. Sweetland, Director of Finance A. Boylan, and Director of Fire and Emergency Services J. Spoor

**Via Zoom:**

**Absent:** Mayor D. Mennill

**CALL TO ORDER:**

Deputy Mayor Giguère took the Chair and called the meeting to order at 7:30p.m.

**DISCLOSURE OF PECUNIARY INTEREST and the General Nature thereof:**

There were no declarations of pecuniary interest declared.

**MINUTES:**

**No. 22-367**

**Moved By: Max Moore**

**Seconded By: Mark Widner**

**THAT the minutes of the regular meeting of the Council held on August 18, 2022 and September 1, 2022, be adopted as printed and circulated.**

**Carried**

## **PRESENTATIONS/DELEGATIONS/PETITIONS:**

### **- Presentation – Service Awards for Malahide Fire Services**

Deputy Mayor Giguère acknowledged and thanked all of the Volunteer Firefighters, on behalf of the Township, for their continued commitment and dedication to the community.

Deputy Mayor Giguère and Fire Chief Jeff Spoor presented Fire Service Awards to the following Malahide Firefighters:

- Randy Loewen - OFM 20 Year Exemplary Service Medal
- Randy Huse - OFM 20 Year Exemplary Service Medal
- Jeff Spoor - OFM 25 Year Medal
- Dave Bradley - OFM 25 Year Medal
- Robert Ford - OFM 25 Year Medal & 25 Year Retirement Watch
- Dennis Johnson - OFM 30 Year Exemplary Service Bar & 30 Year Service Bar

The following Malahide Firefighters were acknowledged for their years of service but were unable to attend the meeting to receive their award.

- James Legg - OFM 30 Year Exemplary Service Bar & 30 Year Service Bar
- Kavin Ostrosser - OFM 35 Year Service Bar

### **- Public Hearing – Minor Variance Application**

**No.22-368**

**Moved By: Rick Cerna**

**Seconded By: Scott Lewis**

**THAT the Committee of Adjustment for the Township of Malahide be called to order at 7:43p.m. and that Deputy Mayor D. Giguère be appointed Chairperson for the “Committee of Adjustment”.**

**Carried**

Deputy Mayor Giguère advised that the purpose of this Public Meeting is to consider an application to amend the zoning of the subject property 50260 and 50264 Lyons Line.

Deputy Mayor Giguère asked that Eric Steele of Monteith Brown provide an overview of the application and he provided one.

Deputy Mayor Giguère asked the Clerk to advise and confirm on the method and date of notice given for this meeting. The Clerk advised that this public meeting was advertised in the Aylmer Express for two consecutive weeks. In addition, affected

property owners within 120 meters were sent a notice by prepaid first-class mail that was posted at least twenty days prior to this meeting.

Deputy Mayor Giguère asked if any Committee Members wished to make any Comments regarding the application and there were none.

**No.22-369**

**Moved By: Scott Lewis**

**Seconded By: Rick Cerna**

**THAT Report No. DS-22-40 entitled “Application for Minor Variance – Jeffrey & Margaret Low be received;**

**AND THAT the Application for Minor Variance – Jeffrey & Margaret Low, relating to the property located in PLAN 226 LOT 24, PART LOT 25 (Geographic Township of Malahide), be approved for the reasons set out herein;**

**AND THAT the approval be subject to the following conditions:**

**1)That the owner/applicant obtain the necessary Building Permit within 2 years from the date of decision to the satisfaction of the Chief Building Official, ensuring that the approved variance applies only to the proposed single detached dwelling as illustrated with the application; and,**

**2)That the structure be constructed as per the details shown in the drawings as provided with the application (site location and architectural detail) to the satisfaction of the Chief Building Official.**

**Carried**

**No.22-370**

**Moved By: Max Moore**

**Seconded By: Mark Widner**

**THAT the Committee of Adjustment for the Township of Malahide be adjourned and the Council meeting reconvene at 7:49p.m.**

**Carried**

Deputy Mayor Giguère thanked Mr. Steele and he retired from the meeting.

**REPORTS:**Director of Fire & Emergency Services

## - Emergency Services Activity Report – August

Councillor Widner inquired if the Chief had any insight into the volume of motor vehicle collisions occurring so frequently at various intersections in Malahide. Director of Fire & Emergency Services Spoor noted it's not just happening within Malahide it's happening everywhere. From what he has witnessed the accidents seem to be related to distracted driving, stopping and not looking or not stopping long enough.

**No.22-371****Moved By: Rick Cerna****Seconded By: Chester Glinski**

**THAT Report No. F-22-12 entitled “Emergency Services Activity Report – August” be received.**

**Carried**Director of Public Works

## - Lease Agreement Renewal for Springfield Library

**No.22-372****Moved By: Max Moore****Seconded By: Chester Glinski**

**THAT Report No. PW-22-60 entitled “Lease Agreement Renewal for Springfield Library” be received;**

**AND THAT the current lease agreement between the County of Elgin and the Township of Malahide for the Elgin County Library – Springfield Branch be renewed for a further five (5) year period commencing on January 1, 2023 and ending on December 31, 2027.**

**Carried**Building/Planning/By-law

## - Execute Agreement for Municipal By-law Enforcement Services

**No.22-373****Moved By: Mark Widner****Seconded By: Rick Cerna**

**THAT Report No. DS-22-49 entitled “Execute Agreement for Municipal By-law Enforcement Services” be received;**

**AND THAT Council proceed with the adoption of By-law No. 22-72 authorizing the Mayor and Clerk to sign an Agreement with Tenet Security Group for the provision of municipal by-law enforcement services for a six (6) month term.**

**Carried**

### CAO

#### **- Proposed Redistribution of Federal Electoral Districts**

Councillor Widner inquired what the rationale behind the proposed boundary changes were as it doesn't appear to bring any benefit. CAO Betteridge stated that the explanation for the proposed boundary changes has been triggered by population increases. However, what the lower tier municipalities are concerned about is the division of some municipalities amongst different boundaries and the apparent focus on urban ridings opposed to rural ridings.

Deputy Mayor Giguère stated that the rationale behind the boundary changes is to even out numbers and population growth but there is more than one way to do that and what is being proposed is creating a domino effect across Southwestern Ontario. The impact has not been fully considered but rather considered through a mathematical approach only. She doesn't believe that anyone would disagree with balancing the numbers but another formula that doesn't create tangible consequences needs to be used to avoid splitting municipalities.

**No: 22-374**

**Moved By: Mark Widner**

**Seconded By: Max Moore**

**THAT Report No. CAO-22-11 entitled “Proposed Redistribution of Federal Electoral Districts” be received;**

**AND THAT Staff be directed to coordinate efforts with Elgin County, Elgin local municipal partners, and the City of St. Thomas to represent interests and concerns pertaining to the proposed federal electoral boundary districts;**

**AND THAT the Mayor be directed, in coordination with the efforts of the County, its partners, and the City, to provide a written submission to the Federal Electoral Boundaries Commission for the Province of Ontario stating that Elgin County and the City of St. Thomas should remain fully contained and represented within one federal electoral district.**

**Carried**



- Port Bruce Flooding, February 17<sup>th</sup> & 18<sup>th</sup> 2022 – Subsequent Update Report

Councillor Lewis wanted to thank staff for the thorough report that was provided. He noted that it covered the concerns brought forth by the ratepayers and if there are follow up questions we can address those as well. He agreed with the concept that not every flood is the same and there isn't one right or wrong answer to any approach.

CAO Betteridge acknowledged the benefit of receiving ideas and suggestions to investigate as everyone wants to minimize the effects of flooding that the residents have to incur.

Councillor Widner noted that the Rolph Street Drain pump is not meant for flooding but inquired if an alarm could be installed on it for notification purposes. Director of Fire & Emergency Services Spoor stated that the drain during this flood was not accessible for a few days. CAO Betteridge doesn't believe there to be an alarm on the Rolph Street Drain but could provide further information in a follow up report.

Deputy Mayor Giguère also thanked staff for the interim report as its beneficial to report on the information we do have instead of waiting until we have all the answers available. She inquired if a copy of the staff report would be forwarded to the ratepayers association given that they had sent that initial correspondence to Councillor Lewis. CAO Betteridge noted that a copy could be sent.

**No. 22-375**

**Moved By: Scott Lewis**

**Seconded By: Rick Cerna**

**THAT Report No. CAO-22-12 entitled "Port Bruce Flooding, February 17th & 18th, 2022 – Subsequent Update Report" be received.**

**Carried**

**REPORTS OF COMMITTEES/OUTSIDE BOARDS:**

**No. 22-376**

**Moved By: Chester Glinski**

**Seconded By: Scott Lewis**

**THAT the following Reports of Committees/Outside Boards be noted and filed**

**(i) Long Point Region Conservation Authority Board of Directors – Minutes of July 6, 2022**

**Carried**

**CORRESPONDENCE:**

**No. 22-377**

**Moved By: Max Moore**

**Seconded By: Rick Cerna**

**THAT the following correspondence be noted and filed:**

- 1. Association of Municipalities of Ontario - Watch File – dated September 1, 2022 and September 8, 2022. (Pages 2-5)**
- 2. Ombudsman Ontario – Annual Report. (Page 6)**
- 3. Municipality of Brighton – Resolution seeking support regarding changes to be made to the Healthcare Connect System for Members of the Canadian Armed Forces. (Page 7)**
- 4. Municipality of Central Elgin – Notice of Passing Zoning By-law– 285 Bridge Street. (Page 8)**
- 5. Municipality of Central Elgin – Notice of Application & Public Meeting- Zoning By-law & Official Plan Amendment: (Pages 9-10)  
– Eagle Ridge Phase 2  
– Canterbury Place Extension**
- 6. Municipality of Central Elgin – Notice of Public Meeting Concerning a proposed Draft Plan of Subdivision: (Pages 11-12)  
- Karwood Ontario Ltd.  
-2561603 Ontario Ltd.**

**Carried**

**OTHER BUSINESS:**

There were no items of other business

**BY-LAWS:**

- By-law No. 22-55 – Third Reading of Norton Street Drain

**No. 22-378**

**Moved By: Scott Lewis**

**Seconded By: Chester Glinski**

**THAT By-law No. 22-55 being a By-law to provide for Drainage works**

**on the Norton Street Drain, be read a third time, finally passed, and be properly signed and sealed.**

**Carried**

**- By-law 22-62 – Off-Road Vehicle Amendment**

**No: 22-379**

**Moved By: Rick Cerna**

**Seconded By: Max Moore**

**THAT By-law 22-62, being a by-law to Amend the term schedule of By-law 17-51, as amended by By-law 20-80, to regulate the Use of Off-Road Vehicles in the Township of Malahide, be given first, second and third readings, and be properly signed and sealed.**

**Carried**

**- By-law 22-66-Springfield Library Agreement**

**No: 22-380**

**Moved By: Chester Glinski**

**Seconded By: Scott Lewis**

**THAT By-law 22-66, being a By-law to authorize the execution of an Agreement with the Corporation of the County of Elgin for the Springfield Library Lease Agreement, be given first, second and third readings, and be properly signed and sealed.**

**Carried**

**- By-law 22-67- Reduce speed on Carter Road**

**No: 22-381**

**Moved By: Scott Lewis**

**Seconded By: Rick Cerna**

**THAT By-law 22-67, being a By-law to prescribe a speed limit of 60 km/hr on a portion of Carter Road, be given first, second and third readings, and be properly signed and sealed.**

**Carried**

- By-law 22-69- Reduce speed on Conservation Line

**No: 22-382**

**Moved By: Scott Lewis**

**Seconded By: Chester Glinski**

**THAT By-law 22-69, being a By-law to prescribe a speed limit of 60 km/hr on a portion of Conservation Line, be given first, second and third readings, and be properly signed and sealed.**

**Carried**

- By-law 22-68- Reduce speed on Chalet Line

**No: 22-383**

**Moved By: Mark Widner**

**Seconded By: Max Moore**

**THAT By-law 22-68, being a By-law to prescribe a speed limit of 50 km/hr and 60 km/hr on a portion of Chalet Line, be given first, second and third readings, and be properly signed and sealed.**

**Carried**

- By-law 22-70- Reduce speed on Hacienda Road

**No: 22-384**

**Moved By: Rick Cerna**

**Seconded By: Chester Glinski**

**THAT By-law 22-70, being a By-law to prescribe a speed limit of 60 km/hr on a portion of Hacienda Road, be given first, second and third readings, and be properly signed and sealed.**

**Carried**

- By-law 22-71- Reduce speed on Rogers Road

**No: 22-385**

**Moved By: Chester Glinski**

**Seconded By: Scott Lewis**

**THAT By-law 22-71, being a By-law to prescribe a speed limit of 50 km/hr and 60 km/hr on a portion of Rogers Road, be given first, second and third readings, and be properly signed and sealed.**

**Carried**

**CONFIRMATORY:**

**No: 22-386**

**Moved By: Scott Lewis**

**Seconded By: Mark Widner**

**THAT By-law No. 22-73, being a Confirmatory By-law, be given first, second and third readings, and be properly signed and sealed.**

**Carried**

**ADJOURNMENT:**

**No. 22-387**

**Moved By: Chester Glinski**

**Seconded By: Mark Widner**

**THAT the Council adjourn its meeting at 819 p.m. to meet again on October 6, 2022, at 7:30p.m.**

**Carried**

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Deputy Mayor – D. Giguère

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Clerk – A. Adams



## Report to Council

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**REPORT NO.:** DS-22-32

**DATE:** October 6, 2022 (Report submitted August 25, 2022)

**ATTACHMENT:** Application, By-law

**SUBJECT:** **ZONING BY-LAW AMENDMENT APPLICATION OF HOPE CREAMERY**

**LOCATION:** Part of Lot 25, Concession 8 N (51681 College Line)

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### Recommendation:

**THAT Report No. DS-22-32 entitled “Zoning By-law Amendment Application of Hope Creamery” be received;**

**AND THAT the Zoning By-law Amendment Application No. D14-Z09-22 of Hope Creamery, relating to the property located at Part of Lot 25, Concession 8 N; and known municipally as 51681 College Line, BE APPROVED for the reasons set out in this Report.**

### Background:

The Subject Zoning By-law Amendment Application has been submitted by CJDL on behalf of Hope Creamery. The Zoning Amendment proposes to permit an expansion to a dairy processing facility and would include site-specific provisions to regulate the maximum floor area and scale of the operation.

The Application relates to the property located at Part of Lot 25, Concession 8 N, and known municipally as 51681 College Line. An application (D14-Z07-21) for this operation was processed and approved last year to convert an existing vegetable processing facility to dairy/cheese, and the existing processing building being expanded from 450m<sup>2</sup> to no greater than 600m<sup>2</sup>.

Notice of the Application has been circulated to agencies and registered property owners as prescribed and regulated by the Planning Act, RSO 1990, and the Malahide Official Plan, including posting notice in two recent issues of the Aylmer Express.

## **Comments/Analysis:**

The subject property is approximately 21.2 hectares in area, has approximately 496 metres of frontage on College Line, and approximately 570 metres of frontage on Walker Road.

In September 2021, a Zoning By-law Amendment was approved to permit the processing, packaging, storage, and shipping of dairy products, with a site specific provision to allow for the use to be located in a building not exceeding 600 m<sup>2</sup>. Based on the information provided, the owners are proposing to rezone a portion of the property 4,000 m<sup>2</sup> in size to allow for an expansion to the milk and cheese processing facility. The existing building would be increased in size from the previously permitted 600 m<sup>2</sup> to the proposed 800 m<sup>2</sup>. The additions would be added to the north, west and south side of the existing building and would include space for washrooms, an office, a freezer and a receiving bay for the milk products. The proposed use would be serviced by the existing private well, septic system, and fire storage pond. It is noted that further details of on-site servicing may be required at the time of Site Plan Control. It should also be noted that the property also contains a farm market building (Hope Eco-Farm Store) as well as an accessory dwelling and fabric shed with laneway access from College Line.

The remainder of the subject lands would be rezoned to remove the existing site-specific zoning that permits the vegetable processing plant and dairy processing plant.

## **Provincial Policy Statement (PPS)**

In Prime Agricultural Areas, the Provincial Policy Statement (PPS) permits agricultural, agricultural-related, and on-farm diversified uses. The Guidelines for Permitted Uses in Prime Agricultural Areas provides criteria to assist in evaluating agricultural-related use. Uses are to be compatible with the surrounding agricultural areas and have adequate access to services, including water and wastewater servicing, fire protection, and road access. These uses are to be directly related to and benefits from being in close proximity to farm operations. The proposed creamery is not anticipated to have any impacts on surrounding agricultural operations and would be adequately serviced, use the existing road access to College Line, and continue to use existing fire protection pond on site. The proposed use would support agricultural operations by processing milk produced by farms in the surrounding area.

## **County of Elgin Official Plan**

The subject property is designated 'Agricultural Area' on Schedule 'A' – Land Use Plan of the County Official Plan. This designation permits agricultural uses subject to criteria including the use is directly related to agriculture and primarily serves agricultural operations, including the processing of milk and cheese (Section C2.6). The proposed use would directly support agricultural operations in the area by processing milk produced at local farms.

## **Malahide Official Plan**

The subject property is designated 'Agricultural' on Schedule 'A1' (Land Use Plan). This designation permits agricultural, agricultural-related, and on-farm diversified uses (Section 2.1.2.1).

It is important to note that, since the application was submitted before the new Official Plan policies came into effect, the application is evaluated against the previous policies for agricultural-related uses. The Official Plan permitted farm-related commercial and industrial uses through an Amendment to the Zoning By-law, provided that proposed uses shall generally not exceed 557m<sup>2</sup> in ground floor area, shall not exceed two storeys in height, and maintain the character of farm buildings in the surrounding area. The proposed processing facility would remain small in scale at a floor area of 800 m<sup>2</sup>. The existing building that would contain the use does not exceed two storeys and has the exterior appearance of an agricultural drive shed, which would be consistent with other farm buildings in the area.

## **Malahide Zoning By-law No. 22-18**

The subject property is zoned site-specific 'Large Lot Agricultural- Special (A3-2)' by Township of Malahide Zoning By-law No. 22-18. The Zoning Amendment proposes to rezone the retained parcel to 'Farm Industrial - Special (M3-XX)' that would permit the dairy processing plant in a building with a maximum floor area of 800 m<sup>2</sup>, as well as to permit the existing farm market and dwelling.

## **Public/Agency Comments Received**

Notice of Public Meeting was given in accordance with Planning Act regulations. As of the date of writing this report, no comments from the general public or agencies have been received. Any comments submitted will be summarized and provided for the information of the Council/Public at the Public Meeting.

At the time of writing this report, no agency or public comments have been received.

## **Financial Implications to Budget:**

The full cost of the consent and associated rezoning process is at the expense of the Applicant and has no implications to the Township's Operating Budget.

## **Relationship to Cultivating Malahide:**

The Cultivating Malahide Integrated Community Sustainability Plan (ICSP) is based upon four pillars of sustainability: Our Land, Our Economy, Our Community, and Our Government.

One of the goals that support the "Our Land" Strategic Pillar is "Protect & Enhance Malahide's Agricultural Character". By respecting the agricultural land base through the land use planning process, the Council is achieving this goal.



Submitted by:	Reviewed by:
Eric Steele, BES Monteith Brown Planning Consultants, <u>Consulting Planner for the Township</u>	Jay McGuffin, MCIP, RPP Monteith Brown Planning Consultants

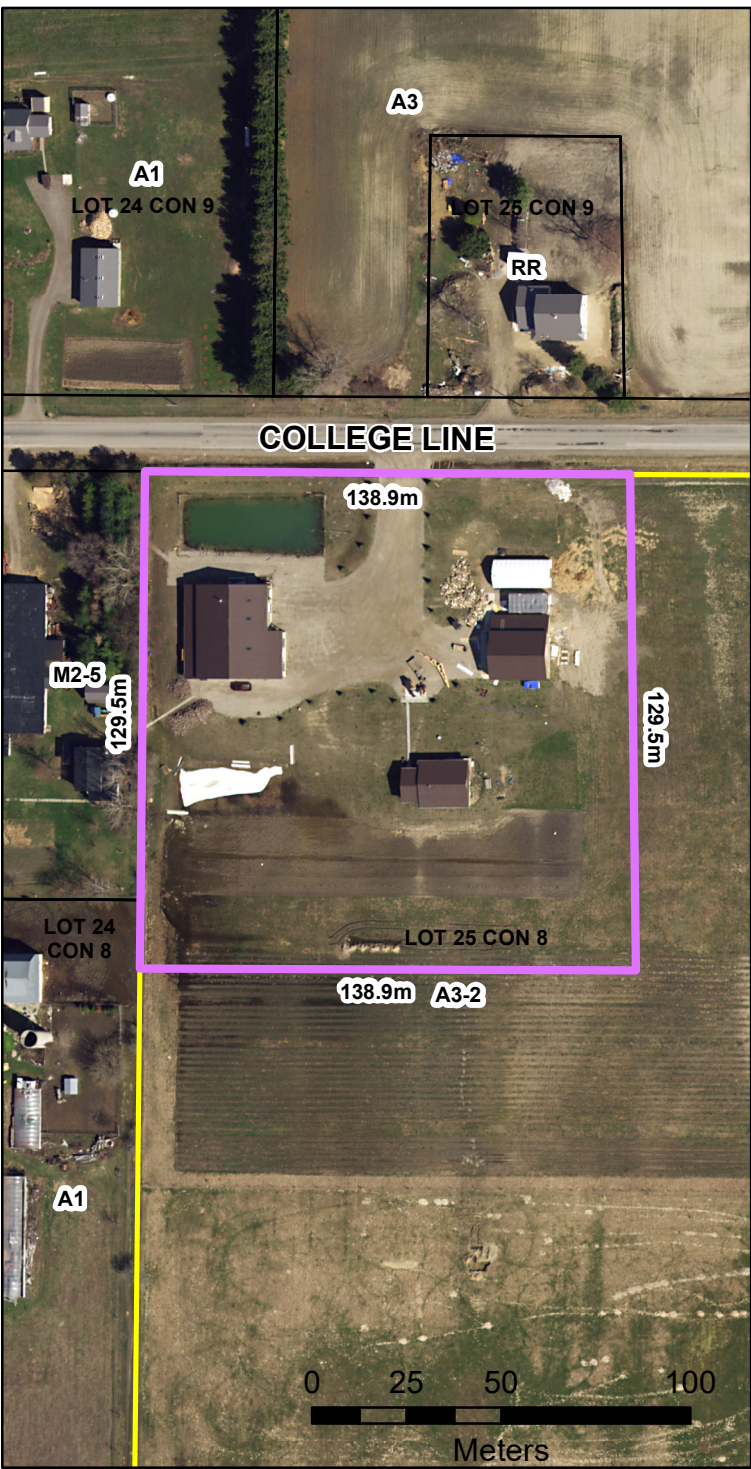
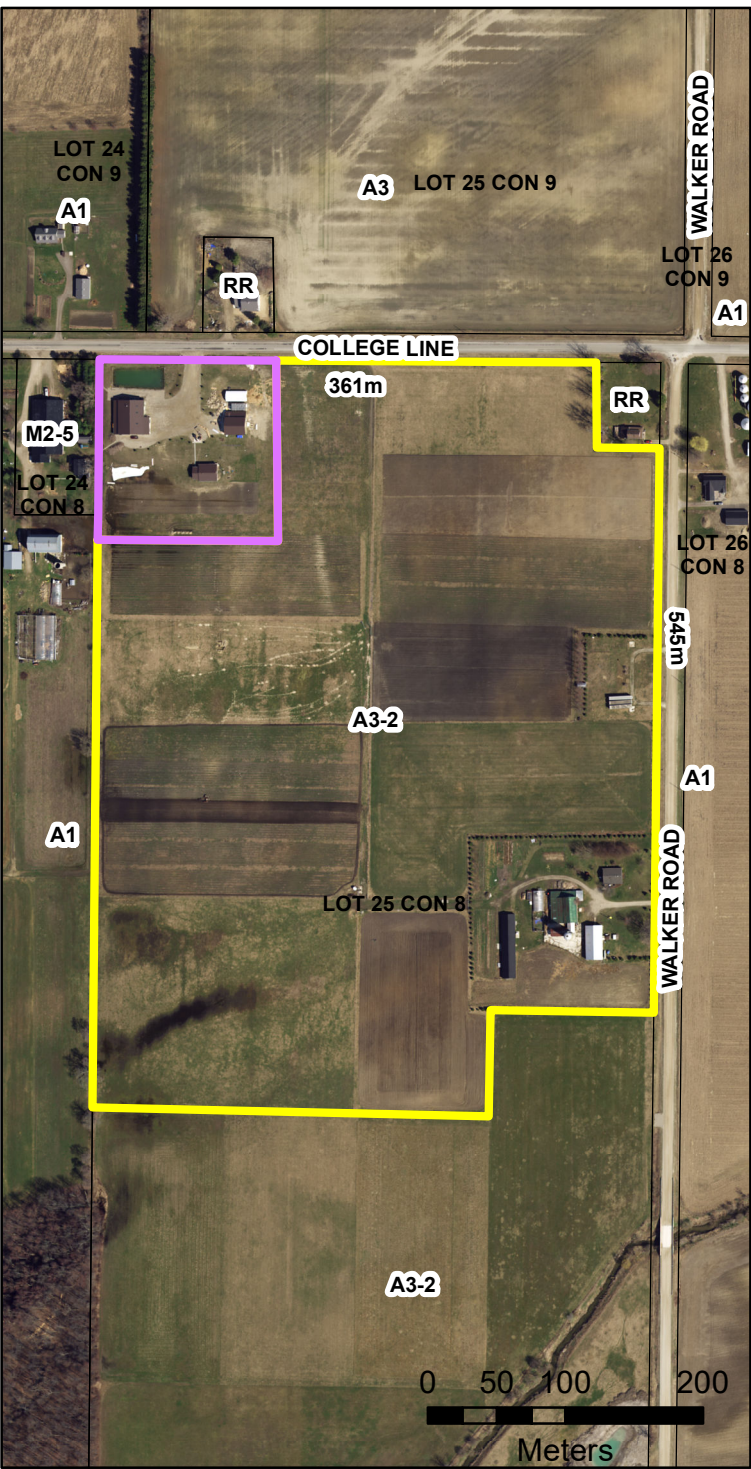
Approved by:
Adam Betteridge, Chief Administrative Officer

APPLICATION FOR A ZONING BY-LAW AMENDMENT

Owners: Calvin Jantzi, Enos Stoll, Isaak & Pollyanne Reimer  
(Agent: Trevor Benjamins, c/o. CJDL)

51681 College Line  
Concession 8, 11R-8078, Part 2, Part Lot 25  
Township of Malahide

Township  
of Malahide  
Figure 1



OFFICIAL PLAN DESIGNATION  
Agricultural

ZONING  
A3-2 Large Lot Agricultural Site-Specific Zone

Legend



Lands to be Rezoned Large Lot Agricultural (A3) Zone

Lands to be Rezoned Farm Industrial Site-Specific (M3-4) Zone



**1. Registered Owner's Name:**

Calvin Jantzi, Enos Stoll and Issaak and Pollyanna Reimer

Address: 52313 Glencolin Line, Aylmer Ontario N5H 2R3

Phone No.  
(Home):

Business:

519-765-4771 (voicemail)

Fax: none

Email: amishexpress@amtelecom.net

Lot and Concession (if applicable):

**Are there any other holders of mortgages, charges or other encumbrances of the Subject Lands? If so provide the names and addresses of such persons.**

Kindred Credit Union, Aylmer Branch Phone #519-773-9559

**2. Applicant / Authorized Agent:**

Cyril J. Demeyere Limited - (Trevor Benjamins)

Address: 261 Broadway, P.O. Box 460, Tillsonburg, Ontario, N4G 4H8

Telephone No.: 519-688-1000

Fax: 519-842-3235

**Please specify to whom all communications should be sent:**

Registered Owner ( ) Applicant / Authorized Agent (X)

**3. Legal Description of the land for which the amendment is requested:**

Concession: 8 Lot:

Reference Plan No: 11R-8078 , Part 2 Part Lot: 25

Street and Municipal Address No.: 51681 College Line, Aylmer, Ontario N5H 2R3

**What is the size of property which is subject to this Application?**Area: 21.136 ha m Frontage: 361m m Depth: 545m m  
(College Line) (Walker Road)**When were the subject lands acquired by the current owner?**

August 2020

**4. Existing Official Plan Designation:**County OP: Agriculture  
Malahide OP: Agriculture

How does the application conform to the Official Plan?

Subject Property is designated as Agriculture, the OP permits agriculture related use, milk/cheese processing facility is an agriculture related use.

**5. Existing Zoning By-law Classification:**

Large Lot Agricultural Zone Special (A3-2)

**What are the current uses of the subject lands?**

The current use of the property is a food processing plant for the purposes of fruits and vegetables, a farm market, an existing two-dwelling unit as well as a fabric barn.

The subject lands also have two other municipal addresses (10963 and 11053 Walker Road.) with uses including a single detached dwelling and farm buildings and structures.

**If known, provide the length of time these uses have continued on this property.**

Since rezoning in 2013 for 51681 College Line uses

**If there are any existing buildings or structures on the subject lands provide the following information:**

Type (51681 College Line)	Front Lot Line Setback	Side Lot Line Setbacks	Rear Lot Line Setback	Height	Dimension s
Food Processing Plant	31.6m	14.7m	+/- 488m	Less than 10.5m	447.1m <sup>2</sup>
Farm Market	+/- 37 m	+/- 92m	+/- 490m	Less than 10.5m	240.9m <sup>2</sup>
Two Unit Dwelling	+/- 76 m	+/- 92m	+/- 455m	Less than 10.5m	157.8m <sup>2</sup>
Fabric Barn	23.2m	+/- 66m	+/- 514m	Less than 10.5m	111.8m <sup>2</sup>

**If known, provide the dates in which each of these buildings were constructed.**

Unknown

**6. What is the Nature and Extent of the Rezoning?**

A site specific Farm Industrial (M3-XX) rezoning of the site plan area to permit a food processing plant for the purpose of processing milk and cheese products and to permit the expansion of the existing buildings to a maximum floor area of 800m<sup>2</sup>. The lands outside of this area would be rezoned to Large Lot Agricultural (A3).

**7. Why is the rezoning being requested?**

To permit a milk/cheese processing facility on the subject property in addition to the uses currently permitted and to permit the enlargement of the existing building to a maximum floor area of 800m<sup>2</sup>.

8. Does the proposed Zoning By-law amendment implement a growth boundary adjustment of a settlement area? No

If so, attach separately justification or information for the request based on the current Official Plan policies or associated Official Plan amendment.

9. Does the proposed amendment remove land from an area of employment? No

If so, attach separately justification or information for the request based on the current Official Plan policies or associated Official Plan amendment.

10. Description of proposed development for which this amendment is requested (i.e. permitted uses, buildings or structures to be erected. (Be Specific)

Change the zoning to permit milk and cheese processing, in addition to the other uses permitted by the existing zoning and to expand existing building on site to a maximum floor area of 800m<sup>2</sup>.

**For any proposed buildings or structures on the subject lands provide the following information:**

Type	Front Lot Line Setback	Side Lot Line Setbacks	Rear Lot Line Setback	Height	Dimensions
Milk and Cheese Processing Facility	24.5m	9.7m	+/- 488.98m	Less than 12m	799.3m <sup>2</sup>

11. Services existing or proposed for the subject lands: Please indicate with a (X)

Water Supply (X)

Existing (X)

Proposed

Municipal Piped Water Supply	(   )	(   )
Private Drilled Well	( X )	(   )
Private Dug Well	(   )	(   )
Communal Well	(   )	(   )
Lake or other Surface Water Body	( X ) for fire protection	(   )
Other	(   )	(   )

<b>Sewage Disposal</b>	<b>Existing</b>	<b>Proposed</b>
Municipal Sanitary Sewers	(   )	(   )
Individual Septic System	( X )	(   )
Communal System	(   )	(   )
Privy	(   )	(   )
Other	(   )	(   )

**Note: If the proposed development is on a private or communal system and generate more than 4500 litres of effluent per day, the applicant must include a servicing options report and a hydrogeological report.**

Are these reports  
attached?

N.A.

If not, where can they be  
found?

### **Storm Drainage**

Provisions:                      Municipal Tile and lot grading

Proposed Outlet: \_\_\_\_\_

## **12. How will the property be accessed?**

Provincial Highway (   )      County Road (   )      Municipal Road – maintained all year ( X )

Municipal Road – seasonally maintained (   )      Right-of-way (   )      Water (   )

If access is by water, do the parking and docking facilities exist, and what is the nearest public road?



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**13. Has the subject land ever been the subject of an application under the Planning Act for:**

Plan of Subdivision ( )      Consent ( x )

Zoning By-law Amendment ( x )      Ministers Zoning Order ( )

**If yes to any of the above, indicate the file number and status of the application.**

Zoning By-law Amendment Approved for Fruits and Vegetable processing and a commercial market

prior consent and rezoning for 11097 Walker Road granted, file number unknown

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**14. How is the proposed amendment consistent with the Provincial Policy Statement 2005?**

In Agricultural areas, permitted uses include agriculture related uses. Refer to Planning Justification

Report for additional information.

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**15. Are the subject lands within area designated under any Provincial Plan(s)? If the answer is yes, does the proposed amendment conform to the Provincial Plan(s)?**

No

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**17. The Owner is required to attach the following information with the application and it will form part of the application. Applications will not be accepted without the following.**

(a) A sketch based on an Ontario Land Surveyor description of the subject lands showing

- the boundaries and dimension of the subject lands;
  - the location, size and type of all existing and proposed buildings and structures, indicating their setbacks from all lot lines, the location of driveways, parking or loading spaces, landscaping areas, planting strips, and other uses;
-

- the approximate location of all natural and artificial features (buildings, railways, roads, watercourses, drainage ditches, banks of rivers or streams, wetlands, wooded areas, wells and septic tanks) that are on the subject lands, adjacent to the subject lands, or in the opinion of the applicant may affect the application;
- the current uses of the land that is adjacent to the subject land;
- the location, width, and name of any roads within or abutting the subject land, indicating where it is an unopened road allowance, a public traveled road, a private road, or a right-of-way;
- the location of the parking and docking facilities to be used (if access will be by water only);
- the location and nature of any easement affecting the subject land.

(b) Written comments from the Elgin St. Thomas Health Unit, Long Point Region Conservation Authority and Ministry of Transportation (if applicable).

(c) If a private sewage system is necessary, pre-consultation with the Chief Building Official is required about the approval process

**18. If this application is signed by an agent or solicitor on behalf of an applicant(s), the owner's written authorization must accompany the application. If the applicant is a corporation acting without an agent or solicitor the application must be signed by an officer of the corporation and the seal if any must be affixed.**

**19. Additional Information as required by Council**

None

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**20. If this application is to accommodate the consent of a surplus farm dwelling, please provide the following information:** N.A.

Date surplus farm dwelling was erected: \_\_\_\_\_

Please provide the assessment roll number, location, and zoning of the farm parcel with which the subject lands is being consolidated.

---



### Municipal Freedom of Information Declaration

In accordance with the provisions of the Planning Act, it is the policy of the Township Planning Department to provide public access to all development applications and supporting documentation.

Personal information contained on this form is collected pursuant to the Planning Act, R.S.O. 1990, O.Reg 200/96 as amended and will be used for the purpose of determining permission for re-zoning. The personal information collected will be maintained in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, as amended.

In submitting this development application and supporting documentation, We \_\_\_\_\_

the owner, hereby acknowledge the above-noted policy and provide our consent, in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, that the information on this application and any supporting documentation provided by myself, my agents, consultants and solicitors, will be part of the public record and will also be available to the general public.

We hereby authorize the Township of Malahide to post a Change of Use sign and municipal staff to have access to the subject site for purposes of evaluation of the subject application.

Calvin Jantzi  
Signature

04 06 2022  
Day Month Year

Enos Stoll  
Signature

04 06 2022  
Day Month Year

Isaak and Pollyanna Reimer  
Signature

04 06 2022  
Day Month Year

We, Calvin Jantzi  
Enos Stoll  
Isaak and Pollyanna Reimer, of the \_\_\_\_\_ Township  
Name Town/Township/City/Village etc.

of Malahide, in the county Elgin, do solemnly declare:  
Municipality Name County Name

- (i) that We are the owner(s) of the lands described above
- (ii) that to the best of my / our knowledge and belief, all of the information and statements given in this application and in all exhibits transmitted are true.

Cyril J. Demeyere Limited - (Trevor Benjamins)  
 (iii) that we hereby appoint \_\_\_\_\_ to act as an Agent on our behalf  
 in all aspects of this application.

And We make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the "Canada Evidence Act".

DECLARED BEFORE ME at the:

Town of Tillsonburg of Tillsonburg Owner / Agent  
 in the County/Region of Oxford this 6th  
 day of June 20 22.

Owner / Agent

Karla Cyr

A Commissioner, etc.

Karla Suzanne Cyr, a Commissioner, etc.,  
 Province of Ontario,  
 for Cyril J. Demeyere Limited.  
 Expires March 21, 2025.

Proposed change to site specific  
Farm Industrial (M3-XX) Zone

Map 30

COLLEGE LINE

M2-5

RR

Proposed Large Lot  
Agricultural (A3) Zone

M2-6

A1

A1

A3-2

LOT 24

LOT 25

LOT 26

LOT 27

WALKER ROAD

Map 38

Map 40

A1

A1

A3

I

RR

I

GLENCOLIN LINE

Map 48



0 100 200 400 Metres

Township of Malahide  
Comprehensive Zoning-Bylaw No.18-22

**SCHEDULE 'A'**

Map No. 39

**PLANNING JUSTIFICATION REPORT**

**HOPE CREAMERY**

**51681 COLLEGE LINE**

**TOWNSHIP OF MALAHIDE**



**PLANNING JUSTIFICATION REPORT****51681 COLLEGE LINE****TOWNSHIP OF MALAHIDE****TABLE OF CONTENTS**

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21070

23 May, 2022

## **PLANNING JUSTIFICATION REPORT**

### **51681 COLLEGE LINE**

### **TOWNSHIP OF MALAHIDE**

#### **1.0 INTRODUCTION**

This report provides planning impact analysis regarding the proposal of Calvin Jantzi, Enos Stoll and Isaak and Pollyanna Reimer for a proposed milk and cheese processing facility on lands they own located at 51681 College Line, Malahide Township, Elgin County, Ontario, as depicted on Figure 1 herein. This proposed facility will be referred to herein as the “Hope Creamery”. The subject property is located on the south side of College Line between Walker Road and Springfield Line. The Hope Creamery use would entail the manufacturing and processing of goat, sheep and buffalo milk into hard and soft cheese, yogurt, ice cream and fluid milk products. In addition, the proposed Hope Creamery will include storage, packaging and shipping of the finished products. The raw milk brought for manufacturing and processing will be produced at a variety of 12 local farms and transported to the Hope Creamery. Deliveries to the facility would take place on a once daily basis and the milk would be delivered by a small box truck. Hours of operation for the proposed Hope Creamery would be Monday to Friday 8:00 a.m. to 5:00 pm and it would have 2 full-time employees and 4 part-time employees all of whom generally would walk to work so limited parking is required beyond that already provided on site. The existing building for the proposed Hope Creamery is approximately 450 square meters in area and the proposal is to expand the existing former food processing plant building (storage and treatment of fruits and vegetables) to 800 square meters in total to meet the needs of the proposed operation. The additions to the north, west and south will include space for washrooms, an office, a freezer and a receiving bay for the milk products.

The proposed development is depicted on the preliminary site plan (see Figure 2 herein) and would make use of an existing private well, septic system and fire storage pond which have been determined to be adequate for the proposed use. There would be a separate wastewater treatment facility for the cheese-making process that is identified on the proposed site plan (Figure 2).

It should be noted that the property also contains a farm market building (Hope Eco-Farm Store) as well as an accessory two-unit dwelling and fabric shed with laneway access from College Line. The existing farm market sells a variety of local products including but not limited to: stoneground flour, grains and cereals, eggs, maple syrup, water buffalo and sheep cheese, legumes, dried fruits, nuts, honey, organic sugars, yogurt, pepperettes, summer sausage, gluten-free products, pasta and rice, seeds and some kitchenware. Hours of operation for the Farm Market are 9:00 a.m. to 5:00 p.m. Monday to Friday and



Figure 1: Subject Property and Surrounding Land Use

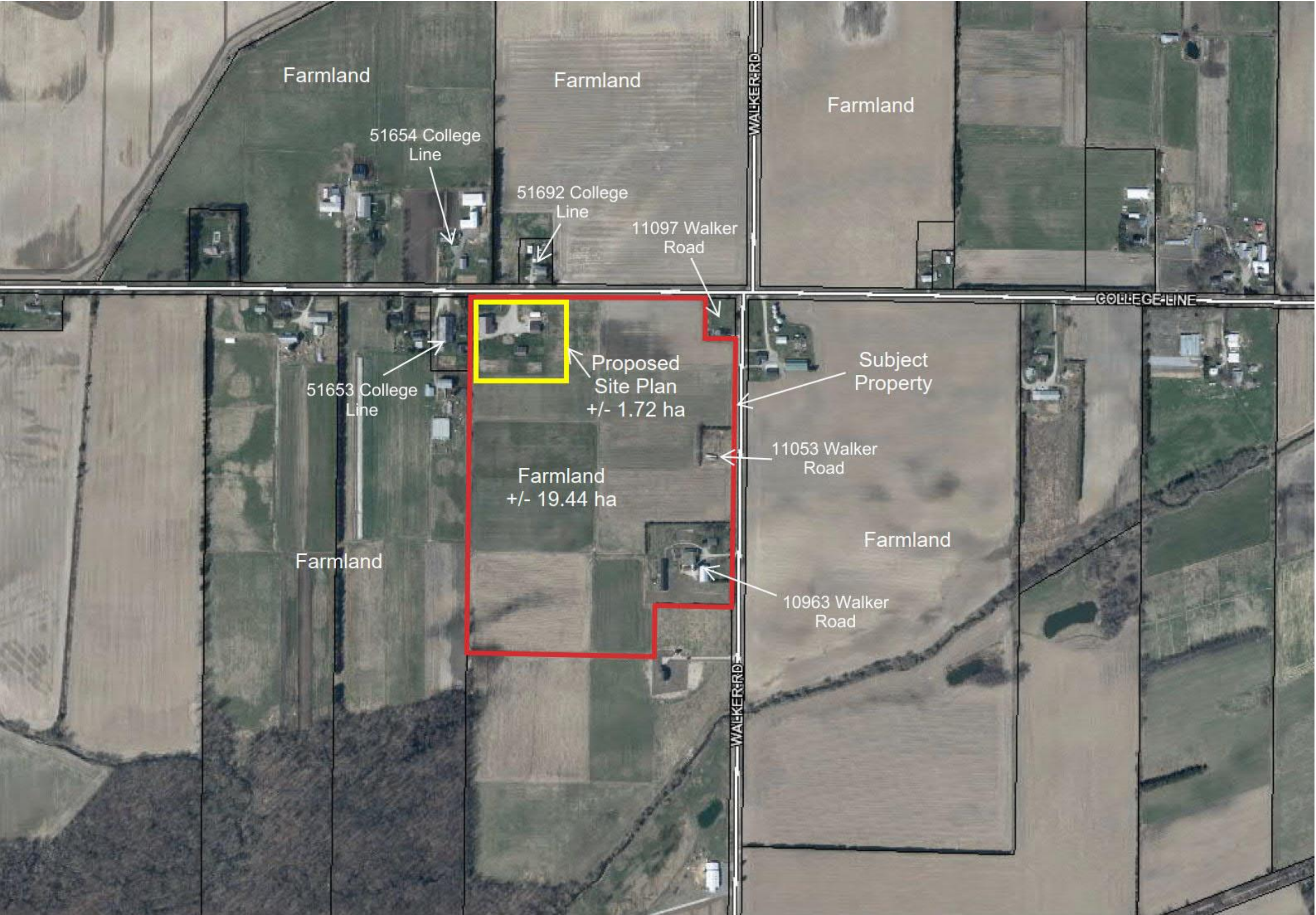
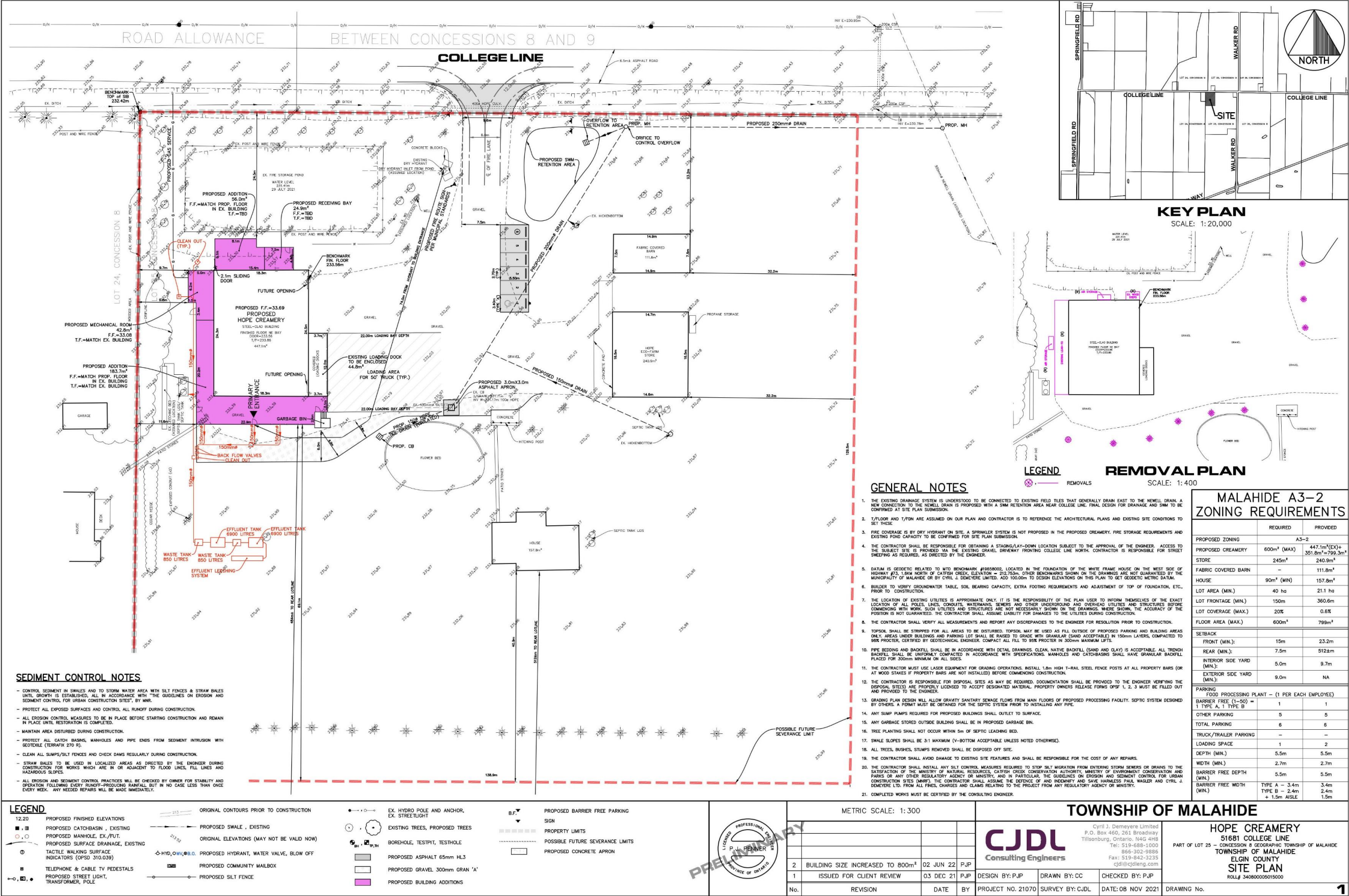




Figure 2: Proposed Site Plan





two employees are required for the farm market. There are also buildings located on the subject property with laneway access from Walker Road (11053 and 10963 Walker Road) which include a single detached dwelling at 11053 Walker Road and a single detached dwelling, three barns and some farm sheds at 10963 Walker Road.

The Hope Creamery proposed use at 51681 College Line requires an amendment to Township of Malahide Zoning Bylaw No. 18-22, as amended (ZB) and if approved, will be subject to Site Plan Approval (SPA). All information identified as required to support the Zoning By-law amendment (ZBA) will be submitted concurrently with a ZBA application to the Township of Malahide.

As noted, the property which is subject the proposed use is located at the southwest corner of College Line and Walker Road and has existing laneway accesses from both Township roads. The legal description of the subject property is: part of Lot 25, Concession 8, in the geographic Township of Malahide, in the County of Elgin.

## **2.0 SUBJECT LANDS**

The subject property has frontage of approximately 496 meters on College Line and depth of approximately 570 meters on Walker Road, comprising an area of approximately 21.2 hectares. There appears to have been a prior severance for single detached residential purposes at the southwest corner of College Line and Walker Road (11097 Walker Road). The entire property is outlined in red on Figure 1 with the area of the proposed milk and cheese making facility and existing buildings outlined in yellow. The Figure 2 preliminary site plan shows the development area in greater detail. The area of the lot outside of the Figure 1 yellow outline is currently in agricultural cash crop cultivation (along with the buildings described at 11053 and 10963 Walker Road) which will not be changing or the subject of development at this time.

The proposed Hope Creamery is located on the west side of the proposed site plan. The one-storey two-unit dwelling on the south side of the proposed site plan has a ground floor area of approximately 157.8 square meters. On the east side of the proposed site plan is the existing farm market building which has an approximate ground floor area of 240.9 square meters.

North of the existing farm market is the fabric shed approximately 111.8 square meters in area which is equipment and machinery storage for the farming operation and will continue to be used for this purpose as well as some possible storage for the Hope Creamery. The proposed site plan has a variety of trees and plantings as well as a gravel parking lot that services all uses within the site plan area.

The subject property is designated as an Agricultural Area on the County of Elgin Official Plan Schedule "A" Land Use Plan (Map excerpt in Section 8.2). The Township of Malahide Official Plan (OP) designates the subject property as Agricultural (Appendix A). The subject property is zoned as a site-specific Large Lot Agricultural zone (A3-2) according to the ZB (Appendix B). This zoning was enacted in 2013 by way of ZBA to permit the previous use of the proposed Hope Creamery building, a food processing facility for the purpose of fruits and vegetables.

## **3.0 SURROUNDING LAND USES**

Surrounding land uses are primarily agricultural comprising mostly croplands and zoned as a combination of General Agricultural (A1) and Large Lot Agricultural (A3) by the ZB (see Appendix B).

Northwest of the subject property at 51654 College Line is a single-detached dwelling, a livestock barn used for sheep production, and a variety of farm-related buildings and structures associated with crop

production. There is also a single detached dwelling and some storage sheds located on a lot north of the subject property at 51692 College Line which is zoned as Rural Residential (RR).

West of the subject property is an existing lot at 51653 College Line zoned as Rural Industrial Special (M2-5) containing an approximate 1020 square meter building used for manufacturing cook stoves as well as a single detached dwelling. It is understood that one of the persons living in this dwelling would work at the proposed Hope Creamery if approved. There are several trees on the east side of the manufacturing building providing a natural buffer between the properties. West of this building is a property containing two single detached dwellings at 51651 and 51623 College Line respectively along with several farm-related buildings and structures associated with crop production.

East of the subject property is the single detached dwelling at 11097 Walker Road which is zoned as Rural Residential (RR). The surrounding land uses are all identified on Figure 1 and depicted on the following photographs:



Existing 2 Unit Dwelling located on Subject Property  
Photo: Trevor Benjamins, 24 March, 2022



Existing Farm Market (Hope Eco-Farm Store) located on Subject Property, looking east  
Photo: Trevor Benjamins, 24 March, 2022



Existing fabric shed located on Subject Property north of the existing farm market  
Photo: Trevor Benjamins, 24 March, 2022





Existing Food Processing Facility (Proposed Hope Creamery) located on Subject Property looking west

Photo: Trevor Benjamins, 24 March, 2022



51653 College Line, Facility for manufacturing cookstoves west of the subject property

Photo: Trevor Benjamins, 24 March, 2022





Fire Pond on the subject property, north of the existing building  
Photo: Trevor Benjamins, 24 March, 2022



10963 Walker Road, located on the subject property  
Photo: Trevor Benjamins, 24 March, 2022





10197 Walker Road, located east of the subject property  
Photo: Trevor Benjamins, 24 March, 2022

#### **4.0 NATURE OF USE**

The existing building which is proposed for the Hope Creamery facility was previously used for the storage and treatment of fruits and vegetables and is currently used for storage. Its floor area is approximately 450 square meters. Figure 3 herein shows the proposed cheese-making facility internal layout in detail which would be specific to the proposed use.

The proposal entails a very specific process for cheese making. As noted, once daily a small box truck would deliver fresh goat, sheep and buffalo milk produced from 12 local farms through the receiving bay on the east side (Figure 3). The receiving bay would have a diaphragm pump which moves the milk gently without churning it which can negatively affect the cheese quality. From the receiving bay, milk flows into a pasteurizer where it is preheated and then either into a soft or a hard cheese vat. There are 4 rooms dedicated to the production of soft and hard cheese products. It could also flow into a separator for butter, ghee, yogurt kefir, ice cream or fluid milk. The soft cheese is aged for a week or two and the hard cheese for up to several years. Several of the products like soft cheese will have a second or third product from what is left before the whey is pumped into the whey tank. This whey is taken to a local farmer and fed to pigs. The milk would also be processed into yogurt, ice cream or fluid milk products. There is an incubation yogurt room, a fermentation room as well as a fast cooler. The proposed Hope Creamery will have significant packaging and storage requirements and there are specific rooms for this purpose. The proposed operation will also have office and washroom facilities using the existing septic system for employees who would work here. There is also a bottle filler room and a large cooler for finished manufactured products which would be connected to the main shipping location. A small truck would pick up processed products once daily. Most activity associated with the cheese making process would be oriented to the east side of the building as this is the location of ingress



egress doors, loading ramps and where deliveries and pickups of products would take place.

There would be very little noise and or air emissions in the process of the proposed Hope Creamery. All processing equipment is internal to the building with very little mechanization involved other than the pasteurizer, diaphragm pump and separator.

All activity associated with the cheese making is oriented to the east side of the existing building which is where the prior fruit and vegetable storage and treatment activity took place in terms of product arrivals and shipments.

There is an exhaust hood within the proposed building that is required for the two kettles in the main processing room. On the west side of the proposed building would be two windows, two man doors and a sliding door. On the south side of the building are five windows, three overhead doors, one rollup door and one man door. On the east side of the building is where most of the arrivals and shipments will take place, there is a loading ramp as well as a receiving bay. On the east side of the building are also 5 future openings which will have removable panels installed as well as two windows. On the north side of the proposed building is another overhead door, one window and one man door. This building detail demonstrates that the majority of activity will be directed to the east side of the building as noted above and would be directed away from surrounding uses to west or northwest.

Once a week a full-size tractor-trailer would deliver packaging and shipping materials. The entire operation would see roughly 11 trucks a week, with only one truck being a full-size tractor-trailer and the rest being a small box truck. The farm market would also act as a retail outlet for the proposed products which are going to be produced or manufactured within the proposed Hope Creamery. The farm market would continue to generate traffic from customers which typically includes a limited number of vehicles each day as currently occurs. The surrounding community is primarily Amish which relies on around 40-50 percent non-motorized forms of transportation (e.g., bicycle, horse and buggy or wagon) as opposed to motorized vehicles. The rest of the traffic to and from the site is expected to be fairly limited as most of the workers live adjacent to the site and will walk or bike to work.

## **5.0 PROPOSED ZONING BYLAW AMENDMENT (ZBA)**

The purpose of the proposed ZBA is to increase the size of the existing food processing plant and convert the use to a proposed milk and cheese processing facility. The proposed ZBA would change the zoning of the agricultural-related farm to a site-specific Farm-Industrial (M3-XX) Zone for the site plan area only. In consultation with the municipality, it was discussed that a zoning change to A3 would also be appropriate for the land outside the site plan area to have the current (A3-2) zoning removed. The southern adjacent lot shares this A3-2 zoning, and the municipality will address this zoning change during a future housekeeping ZBA.

As has been noted, the subject property is currently zoned as a site-specific Large Lot Agricultural zone (A3-2) per ZB Section 5.6.2 (see Appendix B).

### *a) Defined Area*

*A3-2 as shown on Schedule "A", Map No. 39*

### *b) Permitted Uses*

*food processing plant for the purposes of the storage and treatment of fruits and vegetables  
existing two-unit dwelling as an accessory use*

*farm market*

*all other permitted uses of the A3 zone*



- c) *Maximum Floor Area*  
*food processing plant for the purposes of the storage and treatment of fruits and vegetables 450 m<sup>2</sup>*
- d) *Maximum Floor Area*  
*farm market in an existing building accessory to an agricultural use 245 m<sup>2</sup>*

Uses permitted within the A3 zone per ZB Section 5.1.1 are:

<i>agricultural use</i>	<i>home occupation</i>
<i>agri-tourism use</i>	<i>market garden</i>
<i>animal kennel</i>	<i>mushroom farm</i>
<i>bed &amp; breakfast establishment</i>	<i>plant nursery</i>
<i>commercial greenhouse</i>	<i>riding school</i>
<i>converted dwelling</i>	<i>sawmill</i>
<i>estate winery</i>	<i>seasonal farm dwelling</i>
<i>farm produce outlet</i>	<i>secondary farm occupation</i>
<i>farm winery</i>	<i>single unit dwelling</i>
<i>forestry use</i>	<i>wildlife preserve</i>
<i>group home</i>	<i>supplementary farm housing</i>
<i>halfway house</i>	

The requested ZBA would change the zoning of the site plan area on the subject property to a site-specific Farm Industrial (M3-XX) Zone. Under ZB Section 8, the M3 zone is described – distinct from the General Industrial (M1), Rural Industrial (M2) and the Extractive Industrial (M4) Zones - as follows:

*“The Farm Industrial (M3) Zone applies primarily to agriculturally related commercial and industrial uses on lands designated ‘Agricultural’ in the Township’s Official Plan. Permitted uses include abattoirs, agricultural sales establishments, feed mills, grain handling facilities and livestock marketing yards. A dwelling unit is permitted as an accessory use. The Official Plan permits agriculturally related commercial and industrial uses in areas designated ‘Agricultural’ where it is necessary that they be in close proximity to agricultural operations or where the potential for conflict makes such uses unsuited to settlement areas. Standards apply with respect to lot area, lot frontage, setbacks from property lines and lot coverage. Buffering, landscaping, surface drainage and parking areas are usually addressed separately as a matter of site plan control.”*

Uses permitted within the M3 zone per ZB Section 8.1.1. include:

<i>Abattoir</i>	<i>Fertilizer Plant</i>
<i>Agricultural sales establishment</i>	<i>Food Processing Plant</i>
<i>Animal hospital</i>	<i>Grain Handling Facility</i>
<i>Dwelling unit as an accessory use</i>	<i>Livestock marketing yard</i>
<i>Farm equipment sales and service</i>	<i>Outside storage</i>
<i>Farm fuel sales</i>	<i>Sawmill</i>
<i>Feed mill</i>	<i>Service shop</i>

As the processing and manufacturing of raw milk is proposed, the proposed Hope Creamery use would conform with the ZB Section 2.82 definition of “food processing plant” as follows:

*“shall mean a building in which agricultural products are prepared, processed, preserved, graded or stored for eventual human consumption.”*

In addition, the existing farm market would constitute an “agricultural sales establishment” given its sale of both products produced on site and within the area.

Accordingly, the recommended site-specific zoning wording to apply to the area of the preliminary site plan is as follows

- a) Defined Area  
*M3-2 as shown on Schedule “A”, Map No. 39.*
- b) Permitted Uses  
*food processing plant for the purposes of the processing milk and cheese products*  
*existing two-unit dwelling as an accessory use*  
*farm market accessory to an industrial use*
- c) Maximum Floor Area  
*food processing plant 800 m<sup>2</sup>*  
*farm market in an existing building accessory to an industrial use 245 m<sup>2</sup>*

## **6.0 PLANNING IMPACT ANALYSIS**

### **6.1 PROVINCIAL POLICY**

#### **6.1.1 PROVINCIAL POLICY STATEMENT**

The PPS 2020 provides policy direction on matters of provincial interest related to land use planning and development within the Province of Ontario under the Planning Act. Decisions of municipalities regarding proposed ZBAs are required to be consistent with applicable PPS policy under Planning Act legislative authority. The ZBA proposed to permit a milk and cheese processing facility (Hope Creamery) would be subject to site plan approval under Section 41 of the Planning Act would be consistent with PPS policy as follows:

The proposed dairy milk and cheese processing facility would contribute to available employment opportunities (including industrial and commercial) within Malahide Township which can assist the Township with long term economic development opportunities further to PPS Section **1.1.1 b) and 1.3.1 a).**

The proposed milk and cheese processing facility would be cost-effective, entailing a relatively small addition to an existing building thereby minimizing unnecessary land consumption. Further, it would also make effective use of the existing private well and septic system. The proposed wastewater treatment facility required for the Hope Creamery will be subject to Ontario Building Code (OBC) Approval further to PPS Section **1.1.1 e).**

The proposed milk and cheese processing facility would use rural infrastructure (including roads and hydro) with efficient use of an existing private well and septic system subject to any required improvements. Further, the addition of the Hope Creamery would provide economic opportunities in a prime agricultural area further to PPS Section **1.1.4.1 e) and i).**

Although the subject property is within an area where prime agricultural lands – specialty crop areas and/or Canada Land Inventory Class 1, 2, and 3 lands – predominate further to PPS Section **2.3.1**, the proposed development would not result in the loss of agricultural land or deter from the protection of prime agricultural areas.

Under PPS 2.3.3.1, permitted uses in prime agricultural areas include: agricultural uses, agriculture-related uses and on-farm diversified uses. The PPS the definition for agricultural-related uses is as follows: *“means those farm-related commercial and farm-related industrial uses that are directly related to farm operations in the area, support agriculture, benefit from being in close proximity to farm operations, and provide direct products and/or services to farm operations as a primary activity.”* The PPS definition for on-farm diversified is also as follows: *“means uses that are secondary to the principal agricultural use of the property, and are limited in area. On-farm diversified uses include, but are not limited to, home occupations, home industries, agritourism uses, and uses that produce value added agricultural products. Ground-mounted solar facilities are permitted in prime agricultural areas, including specialty crop areas, only as on-farm diversified uses.”* Section 6.1.2 of this report provides a detailed analysis as to how the proposed milk and cheese processing facility would constitute an industrial and commercial agricultural-related use in direct reference to the definitions given above further to PPS Section **2.3.1**.

PPS **2.3.3.1** stipulates as follows with regard to proposed agriculture-related uses and on-farm diversified uses: *“shall be compatible with, and shall not hinder, surrounding agricultural operations. Criteria for these uses may be based on guidelines developed by the Province or municipal approaches, as set out in municipal planning documents, which achieve the same objectives.”*

In this regard and further to PPS **1.2.6 Land Use Compatibility**, the Ministry of Environment and Energy D-6 Land Use Compatibility Guidelines will be considered in Section 8.0 herein with regard to the compatibility of the proposed use with residential uses within the vicinity.

As will be addressed in Section 6.1.2 herein, the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) publication Guidelines on Permitted Uses in Ontario’s Prime Agricultural Areas (Publication 851) provides PPS Criteria for Agriculture-Related Uses. Wineries and cheese factories are cited as specific food and beverage processor examples of farm-related commercial and industrial uses (page 11, second last paragraph). This is further justification that the proposed development would constitute an agricultural-related use as permitted by the PPS in prime agricultural areas. The proposed milk and cheese processing facility would also support the local Amish community and provide employment and farm-related products to the farming community.

**Conclusion:** Based on the foregoing analysis, the proposed development would be consistent with the PPS.

### **6.1.2 GUIDELINES ON PERMITTED USES IN ONTARIO’S PRIME AGRICULTURAL AREAS**

The OMAFRA Publication 851 addresses the differences between Agricultural Uses, Agricultural Related Uses and On-Farm Diversified Uses. As noted, Section 2.2.1 **PPS Criteria for Agriculture Related** of the guidelines provides the example of a cheese factory as a farm-related industrial use. The proposed cheese-processing facility would meet all the criteria as an agricultural-related use in a prime agricultural areas follows:

#### **1. Farm-related commercial and farm-related industrial use.**

- Cheese factories are an example of a farm-related industrial use given under this section of the guidelines (page 11, second last paragraph), therefore, conforming with guidelines Section **2.2.1 1**. In addition, this proposed cheese-making facility would be of value to the surrounding Amish community, since they mostly use alternative means of transportation as previously stated.

## **2. Shall be compatible with, and shall not hinder, surrounding agricultural operations.**

- **Ensure the surrounding agricultural operations are able to pursue their agricultural practices without impairment or inconvenience.**
  - As previously stated, the large majority of the cheese-making process will happen internally or within the proposed facility. If approved and the proposed enclosed facility would result in very little noise or pollution, ensuring the proposed Hope Creamery would not hinder or negatively impact surrounding agricultural operations as required by Section 2.2.1.2.
- **Uses should be appropriate to available rural services (e.g., do not require the level of road access, water and wastewater servicing, utilities, fire protection and other public services typically found in settlement areas).**
  - The proposed Hope Creamery would also be connected to a private wastewater treatment facility that would be required for the cheese-making process. The overall operation would also make use of an existing septic system and an existing water well which are rural services, which will be used efficiently and will not require the provision of public services. The only reliance on public service would be fire protection which is already being provided to the property and the area and – with regard to fire protection – the nature of the proposed use is not such that an enhanced level of service should be required. There is no indication that the existing road system would not be appropriate to the proposed use. With the limited size of the facility and the surrounding Amish community relying on alternative forms of transportation, the proposed development would not require public services that are typically found in settlement areas.

## **3. Directly related to farm operations in the area**

- The surrounding Amish community produces a variety of items that are brought in and sold at the farm market. As previously stated, 12 farms would contribute milk products required for the proposed cheese processing facility which would directly relate to surrounding farm operations in the area, conforming with guidelines **Section 2.2.1.5 3.**

## **4. Supports agriculture**

- The surrounding agricultural operations would not be adversely affected and the entire operation would directly support nearby Amish agricultural operations by providing a local market for the milk produced conforming with guidelines **Section 2.2.1.5 4.**

## **5. Provides direct products and/or services to farm operations as a primary activity and;**

## **6. Benefits from being in close proximity to farm operations.**

- As previously stated, the proposed operation is going to be run by Amish community members that would contribute largely to the proposed operation and would support the larger Amish community by purchasing the milk produced, manufacturing related products and providing employment. Close to 40% of the community that buys or sells products at the existing farm market is part of the nearby Amish community. This community extensively uses horses and buggy as transportation, which means having a cheese processing facility plus the farm market close by would be a strong benefit for the entire Amish community. Therefore, the use would conform with guidelines **Section 2.2.1 5. and 6.**

Section 2.2.3 of the guidelines give examples of uses that would not be agriculture-related uses. One example given is large food processing plants, large wineries and other uses that are high-water-use or effluent generators and are better suited to locations with full municipal services. Operation of the proposed Hope Creamery does not require high water use and will require a relatively small, private wastewater treatment facility thereby not requiring full municipal services availability. The proposed Hope Creamery will have a limited size of 800 square meters which will be reflected in the site-specific

zoning and would have limited trucks and employees as previously stated. On this basis, the proposed food processing facility would not be considered a large food processing plant.

### **6.1.3 CONCLUSION**

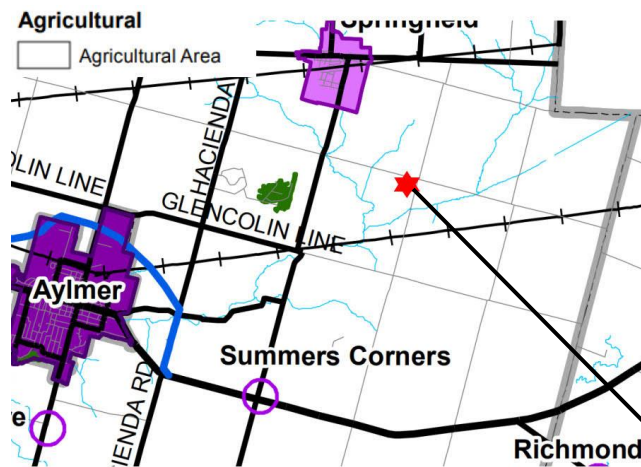
Based on the foregoing analysis, the proposed Hope Creamery use would be consistent with the PPS and meet the PPS Criteria for Agricultural-related Uses.

### **6.2 COUNTY OF ELGIN OFFICIAL PLAN**

The County of Elgin Official Plan (County OP) was approved by the Ministry of Municipal Affairs and Housing on 9 October 2013 with modifications that were consolidated in February 2015.

The subject property is designated as an Agricultural Area on the County OP Schedule “A” Land Use Plan.

Schedule ‘A’ Land Use plan County OP excerpt:



Subject Property Location within Township of Malahide.

The proposed milk and cheese processing facility would conform with County OP Section **A.3 GOALS (4.)** in that the proposed use is agriculture-related and among the uses which the County OP intends to encourage so that the agricultural industry can continue to thrive and innovate.

County OP Section **C2.3 PERMITTED USES** of the **AGRICULTURAL AREAS** policies is permissive of agriculture-related uses subject to Section C2.6 which is as follows:

*“For the purposes of this Official Plan, small scale farm-related commercial and farm-related industrial uses which are directly related to agriculture and primarily serve the agricultural operation by adding value to, or retaining the value of, an agricultural commodity produced by that operation are deemed to be agriculture-related uses. Such uses may also provide direct service to other agricultural operations in close proximity on a secondary basis. Examples of such uses include, but are not limited to: agricultural storage and processing facilities involving the storage and processing of crops and/or livestock and/or related items (such as cheese and milk) from a local farm operation in the area.”*

In accordance with this County OP Policy, the proposed use is small scale, directly related to agriculture and will primarily serve agricultural operations in close proximity by adding value and providing service.

The policy specifically cites as an example cheese and milk storage and processing from a local farm operation in the area.

The proposed milk and cheese processing facility is agricultural-related and is a permitted use in the Agricultural Area designation conforming with County OP Sections C2.3 and Section **C2.6**.

**Conclusion:** Based on the foregoing analysis, the proposed development would conform with the County OP.

### **6.3 TOWNSHIP OF MALAHIDE OFFICIAL PLAN**

The Township of Malahide Official Plan (OP) was adopted by Council on 16 August, 2001, and was approved by The Ministry of Municipal Affairs and Housing on 9 March, 2003, with office consolidation on April 2021 after approval of OPA No. 19 on 26 February, 2021, for the official plan review. The subject property is designated as Agriculture on OP Schedule "A1" Township of Malahide: Land Use (refer to Appendix A herein).

The policy of OP Section **2.1.2.2** permits agriculture-related uses within the Agriculture designation provided they are compatible with agricultural uses and do not contribute to land use conflicts. Further, they are to be small scale and directly related to the farm operation and are required in close proximity to the farm operation, where a farm operation is defined as one or more parcels of land operating under same ownership. While the farms which will be producing the raw milk will not be necessarily in the same ownership, the proposed milk and cheese processing facility is relatively small-scale at 800 square metres and required to be in proximity to the surrounding Amish farming and rural community. The zoning of the subject property will be site-specific which will reflect its agricultural-related characteristics as required by OP Section **2.1.2.2**.

OP Section **2.1.4.2 and 2.1.4.2 a)** states the following: *"In accordance with Section 2.1.2.2, farm-related commercial and industrial uses may be permitted within the "Agriculture" designation through an amendment to the Zoning By-law. In order to differentiate from large-scale uses addressed in Section 3.0 of the Plan, Council shall use the following criteria to define scale:*

*a) Such uses shall generally not exceed 557 m<sup>2</sup> (6000 ft<sup>2</sup>) in ground floor area;"*

The expansion of the existing food processing plant to accommodate the proposed Hope Creamery (milk and cheese processing facility) will exceed the general floor area maximum of 557m<sup>2</sup> as outlined given the proposed addition of the Hope Creamery to a total of 800 square meters. However, it has been demonstrated that the operation would still be relatively small scale in nature and meet the PPS criteria for an agriculture-related use and conform with the County OP. The floor plan illustrates that the floor area is appropriate to the proposed use. Further, it should be taken into account that the stove manufacturing building located to the direct west of the subject property is in excess of 900 square metres in area thereby also exceeding the policy maximum.

OP Section **2.1.4.2 b) and c)** state the following:

*b) Such uses shall not exceed two (2) storeys in height; and*

*c) Such uses will be characteristic of the farm buildings in the area.*

The proposed building will not exceed two storeys in height and will have the overall appearance of a farm drive shed similar to other farm buildings in the surrounding area. Therefore, the ZBA would conform with OP Section **2.1.4. b) and c)**

OP Section **3.8.6 Specific Policy Area No. 6** relates to 9576 and 9444 Walker Road in Malahide which is known as the Woodpecker Furniture Store. The official plan policy was required to permit the small-scale furniture finishing operation including the warehousing and retail sale of goods manufactured on the adjacent property because, while required in this location as a result of distinct cultural practices relying on non-motorized transportation, it is not an agriculture-related use. Milk and cheese processing is directly tied to the Agricultural designation as opposed to commercial furniture creation and sales and will be located on one parcel of land. Therefore, an OP special policy area is not required.

**Conclusion:** Based on the foregoing analysis, the proposed development would conform with the Township of Malahide OP.

#### **6.4 TOWNSHIP OF MALAHIDE ZONING BYLAW NO 18-22**

As previously noted in Section 5.0 of this report, the subject property is currently zoned as a site-specific Large Lot Agricultural Special (A3-2). The proposed ZBA would change the zoning of the subject property to a site-specific Farm Industrial (M3-XX) Zone and with the area outside of the site plan area as Large Lot Agricultural (A3).

The permitted uses of the M3 zone as per ZB Section **8.1.1** were stated in Section 5.0 of this report. The table following outlines the general zoning provisions for the M3 Zone as per ZB Section **8.2.1**.

<b>General Use Regulations</b>	<b>Standard M3</b>
Minimum Lot Area (m <sup>2</sup> )	4000m <sup>2</sup>
Minimum Lot Frontage (m)	30
Minimum Setback (m) from a local road	28
Front Yard Depth (m)	15
Side Yard Width (m)	7.5
Rear Yard Depth (m)	7.5
Maximum Lot Coverage (%)	40
Maximum Height (m)	12
Minimum Landscaped Open Space (%)	10

The proposed use would comply with all of the M3 zoning regulations per ZB Section **8.2.1**.

Accordingly, there are no other site-specific regulations required beyond the text of the proposed site-specific ZBA as follows

- a) Defined Area  
*M3-2 as shown on Schedule "A", Map No. 39.*
- b) Permitted Uses  
*food processing plant for the purposes of the processing milk and cheese products*  
*existing two-unit dwelling as an accessory use*  
*farm market accessory to an industrial use*
- c) Maximum Floor Area  
*food processing plant 800 m<sup>2</sup>*  
*farm market in an existing building accessory to an industrial use 245 m<sup>2</sup>*

The proposed M3-2 zoning, as opposed to the A3 zone site-specific zone approach, is appropriate considering the M2-5 zoning that applies on the abutting property to the west which permits the manufacturing of cook-stoves as well as all other permitted M2 uses.

**Conclusion:** Based on the foregoing analysis, the proposed development would be in conformity with the Township of Malahide ZB subject to the proposed rezoning.

## **7.0 MINIMUM DISTANCE SEPARATION (MDS) DOCUMENT**

PPS, County OP and Malahide OP policies require compliance with Minimum Distance Separation (MDS) formulae for new development in agricultural areas. For implementation guidance, the OMAFRA Minimum Distance Separation (MDS) document provides formulae and guidelines for livestock facility and anaerobic digester odour setbacks (Publication 853). The MDS I and MDS II formulae are defined as follows:

- *MDS I setbacks are determined between proposed new development and existing livestock barns, manure storages and/or anaerobic digesters.*
- *MDS II setbacks are determined between proposed new or altered livestock facilities and/or anaerobic digesters and existing or approved development, lot lines and road allowances.*

The proposed Hope Creamery would fall under MDS I since the proposal would be new development through an addition to the existing building and not a new livestock facility or anaerobic digester. Guideline #35 *MDS Setbacks for agricultural-related Uses and On-Farm Diversified Uses* states the following:

*“MDS I setbacks from existing livestock facilities and anaerobic digesters will generally not be needed for land use planning applications which propose agriculture-related uses and on-farm diversified uses. However, some proposed agriculture-related uses and on-farm diversified uses may exhibit characteristics that could lead to potential conflicts with surrounding livestock facilities or anaerobic digesters. Therefore, it may be appropriate for municipalities to require an MDS I setback to permit certain types of these uses.”*

As previously noted, the proposed cheese processing facility is not an industrial use that can be anticipated to generate potential conflict with surrounding livestock facilities or anaerobic digesters and warranting an MDS I setback. It will operate within daytime hours, operate primarily internal to the building, generate a low volume of traffic, emit no odours, and will be served by on-site services. On the basis of Guideline #35, it should be considered as exempt from the MDS I setbacks.

## **8.0 LAND USE COMPATIBILITY**

The Ontario Ministry of Environment, Conservation and Parks (MECP) D-6 Compatibility between Industrial Facilities are understood to be relevant to the proposed addition to the Hope Creamery primarily to consider any potential impacts upon sensitive land uses in the vicinity. Sensitive land uses are inclusive of residential uses under the guidelines and characteristics of the proposed use would be consistent with the definition of Class I Industrial Facility as:

*A place of business for a small scale, self-contained plant or building which produces/stores a product which is contained in a package and has low probability of fugitive emissions. Outputs are infrequent, and could be point source or fugitive emissions for any of the following: noise, odour, dust and/or vibration. There are daytime operations only, with infrequent movement of products and/or heavy trucks and no outside storage.*



The proposed cheesemaking facility would be a Class I Industrial Facility because:

- The proposed creamery would be a relatively small-scale business.
- The overall process of cheese making is contained within the building and would have a very low probability of fugitive emissions as stated in Section 4.0 of this report.
- As stated in Section 1.0 of this report, the outputs and inputs of trucks to the proposed creamery would be infrequent. A small box truck will come in and out daily to deliver the product.
- The proposed Hope Creamery would only operate during the day with only one heavy truck per week, as previously mentioned in Section 1.0, there would be limited noise, dust, odour or vibration.

The overall purpose and objective of the guidelines are as follows: “The objective of this guideline is to prevent or minimize the encroachment of sensitive land use upon industrial land use and vice versa, as these two types of land uses are normally incompatible, due to possible adverse effects on sensitive land use created by industrial operations.” (Section 1.1)

The closest sensitive land use is the single detached dwelling located at 51653 College Line on the property zoned as M2-5 which is approximately 25 metres off the southwest corner of the existing building. The preliminary site plan indicates that this distance would be reduced by 6 metres to approximately 19 metres. However, it is clear from the preliminary site plan at Figure 2 that there would be no vehicular activity on the south or west sides of the building and the floor plan indicates that all traffic would park on the east side of the building. There would also be little or no industrial activity on the west and south sides of the building addition.

The westerly and southerly additions will also bring the building closer to the other dwellings to the west and to the north by 5 metres and 6.1 metres respectively. In the former case, the cook-stove manufacturing building is located between the proposed development and the dwellings at 51632 and 51651 College Line providing an effective buffer and possibly generating more noise than can be anticipated from the proposed use given that the process will be interior to the building. The dwellings to the north at 51654 and 51692 College Line have ample current separation distance at approximately 120 metres and 95 metres respectively (to be reduced marginally by the northerly addition) which should be sufficient to avoid any potential impacts from noise or dust from the proposed use, especially with the intervening College Line road allowance.

Visually, the proposed development is already buffered across the College Line frontage west of the laneway with tree plantings as depicted on Figure 2 which will also assist with any dust drift associated with site traffic. However, the proposed Hope Creamery would be subject to site plan approval following ZBA. This process will allow the Municipality the opportunity to consider detailed site plan matters under Section 41 of the Planning Act.

## **9.0 SUMMARY AND CONCLUSIONS**

The proposed ZBA for the Hope Creamery located at 51681 College Line, as demonstrated by this report, is consistent with the PPS and conforms with the County OP and the Township of Malahide OP and ZB. The proposed food processing facility that will process milk and cheese products is an agricultural-related industrial use as stipulated in Section 6.1.2 herein.

- The proposed milk and cheese processing facility is identified as an agricultural-related use as per Section 6.1.2 herein. This farm-related industrial use is directly related to agriculture as the milk will be produced at 12 local farms and brought into the facility to be processed into hard and soft cheeses. The proposed milk and cheese processing facility will provide a market for the milk produced and local products to the surrounding Amish farming community as well as local employment.
- The proposed milk and cheese processing facility provides an opportunity for the existing agricultural industry to continue to thrive and innovate, specifically in the surrounding local Amish community.
- The proposed milk and cheese processing facility accommodates an appropriate range and mix of employment opportunities (including industrial and commercial) which can assist the Township of Malahide with long term economic development opportunities
- The proposed milk and cheese processing facility would not exceed 2 storeys in height and has a style of a drive shed which has similar characteristics to other farm buildings in the surrounding area.
- There would be no requirement for enhanced municipal services to accommodate the proposed use beyond the level of service already provided in the form of roads and fire protection. Otherwise, the use can be accommodated through appropriate on site, private services.

The proposed relatively small development is consistent with the Provincial Policy Statement (PPS) and conforms with the County OP and the Township of Malahide OP. The proposed development also conforms with the ZB subject to rezoning.

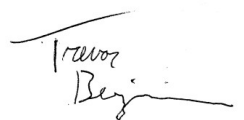
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All of which is respectfully submitted by,

Trevor Benjamins  
OPPI Pre-Candidate  
Associate Planning Technician  
Cyril J. Demeyere Limited.

And

Barbara G. Rosser, RPP, MCIP  
Professional Land Use Planner  
Associate to Cyril J. Demeyere Limited.



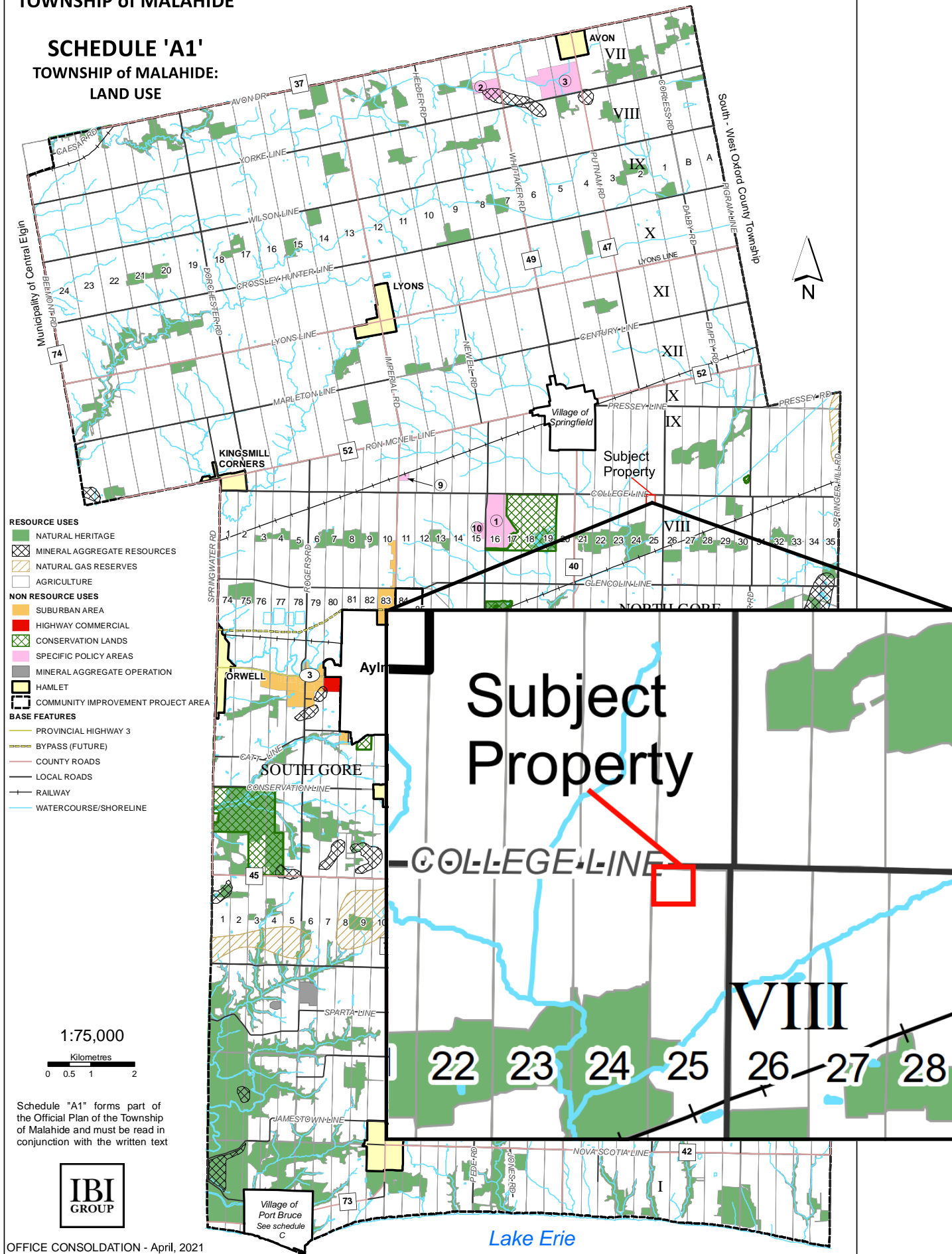

APPENDIX 'A'

Official Plan of the Township of Malahide  
Schedule "A1" Township of Malahide:  
Land Use Plan

# OFFICIAL PLAN OF THE TOWNSHIP of MALAHIDE

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## SCHEDULE 'A1' TOWNSHIP of MALAHIDE: LAND USE

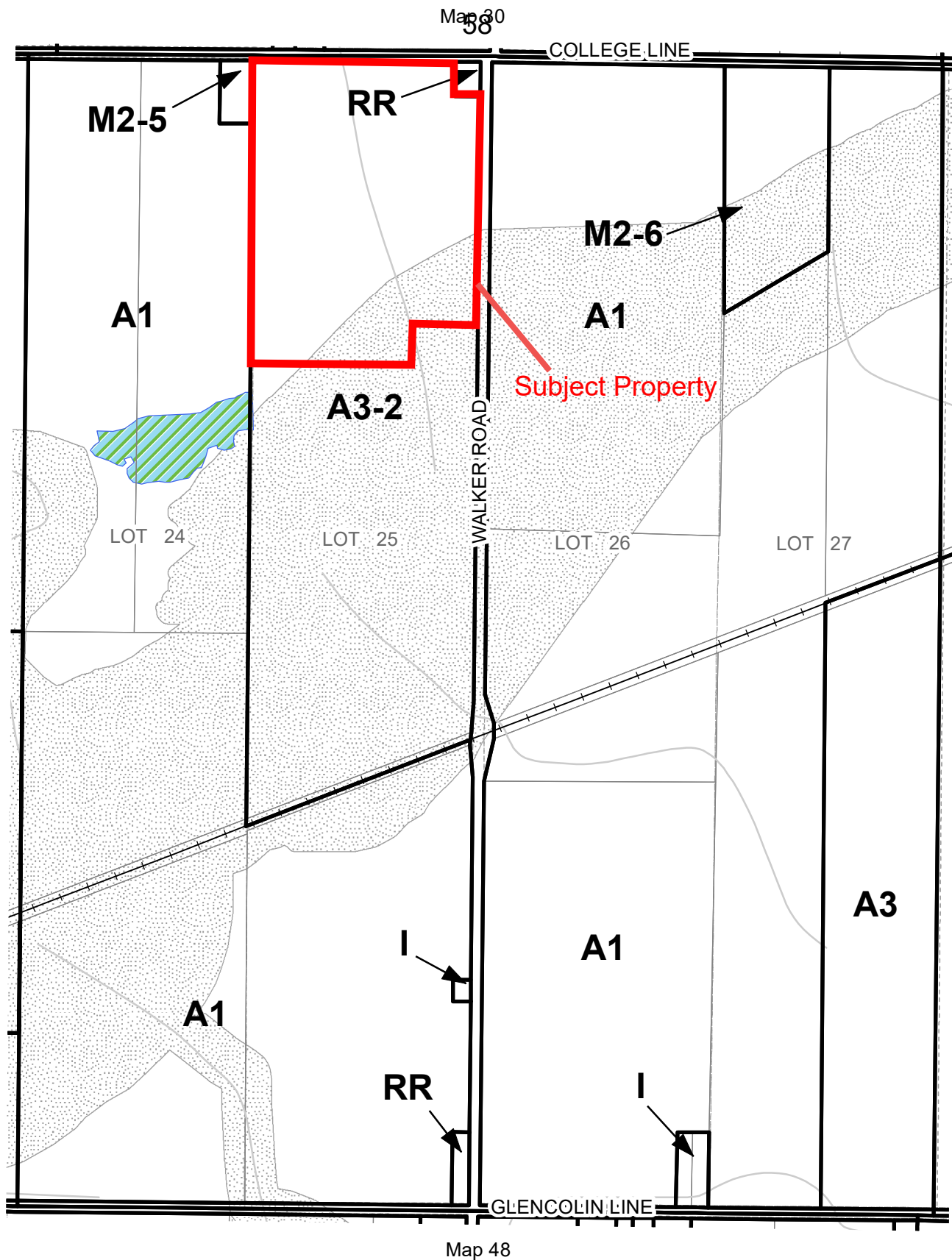


Schedule "A1" forms part of the Official Plan of the Township of Malahide and must be read in conjunction with the written text



APPENDIX 'B'

Township of Malahide Comprehensive  
Zoning-Bylaw No.18-22  
Schedule "A" Map No. 39



0 100 200 400 Metres

Township of Malahide  
Comprehensive Zoning-Bylaw No.18-22

**SCHEDULE 'A'**

Map No. 39







**THE CORPORATION OF THE  
TOWNSHIP OF MALAHIDE  
BY-LAW NO. 22-50**

Being a By-law to amend By-law No. 18-22

**Calvin Jantzi, Enos Stoll and Issaak and Pollyanna Reimer/  
51681 College Line**

**WHEREAS** the Council of The Corporation of the Township of Malahide deems it necessary to pass a By-law to amend By-law No. 18-22, as amended;

**AND WHEREAS** authority is granted under Section 34 of the Planning Act, as amended, to pass a By-law;

**AND WHEREAS** this By-law conforms with the Official Plan of the Township of Malahide, as amended;

**NOW THEREFORE** the Council of The Corporation of the Township of Malahide **HEREBY ENACTS AS FOLLOWS:**

1. **THAT** the area shown in bold on the attached map, Schedule "A", and described as Part of Lot 25, Concession 8 N, in the Township of Malahide, shall be removed from the "Site Specific Large Lot Agricultural (A3-2) Zone" of By-law No. 18-22 and placed within the "Large Lot Agricultural (A3) Zone" of By-law No. 18-22 as set forth in this By-law. The zoning of this land shall be shown as "A3" on Key Map 39 of Schedule "A" to By-law No. 18-22, as amended.
2. **THAT** the area shown in hatching on the attached map, Schedule "A", and described as Part of Lot 25, Concession 8 N, in the Township of Malahide, shall be removed from "Site Specific Large Lot Agricultural (A3-2) Zone" of By-law No. 18-22 and placed within the "Site Specific Farm Industrial (M3-4)" of By-law No. 18-22 as set forth in this By-law. The zoning of this land shall be shown as "M3-4" on Key Map 39 of Schedule "A" to By-law No. 18-22, as amended.
3. **THAT** By-law No. 18-22, as amended, is hereby further amended by amending Section 8.6 FARM INDUSTRIAL (M3) ZONE – 'SITE-SPECIFIC' ZONES, by adding the following new subsection.

**"8.6.4 a) Defined Area**

M3-4 as shown on Schedule 'A', Map No. 39.



**b) Permitted Uses**

processing, packaging, storage, and shipping of locally produced  
milk/cheese products  
two unit dwelling as an accessory use  
farm market

**c) Maximum Floor Area**  
800 m<sup>2</sup>

1. **THAT** this By-law shall come into force:

- a) Where no notice of objection has been filed with the Township's Clerk within the time prescribed by the Planning Act and regulations pursuant thereto, upon the expiration of the prescribed time; or,
- b) Where notice of objection has been filed with the Township's Clerk within the time prescribed by the Planning Act and regulations pursuant thereto, upon the approval of the Ontario Land Tribunal.

**READ** a **FIRST** and **SECOND** time this 6th day of October, 2022.

**READ** a **THIRD** time and **FINALLY PASSED** this 6th day of October, 2022.

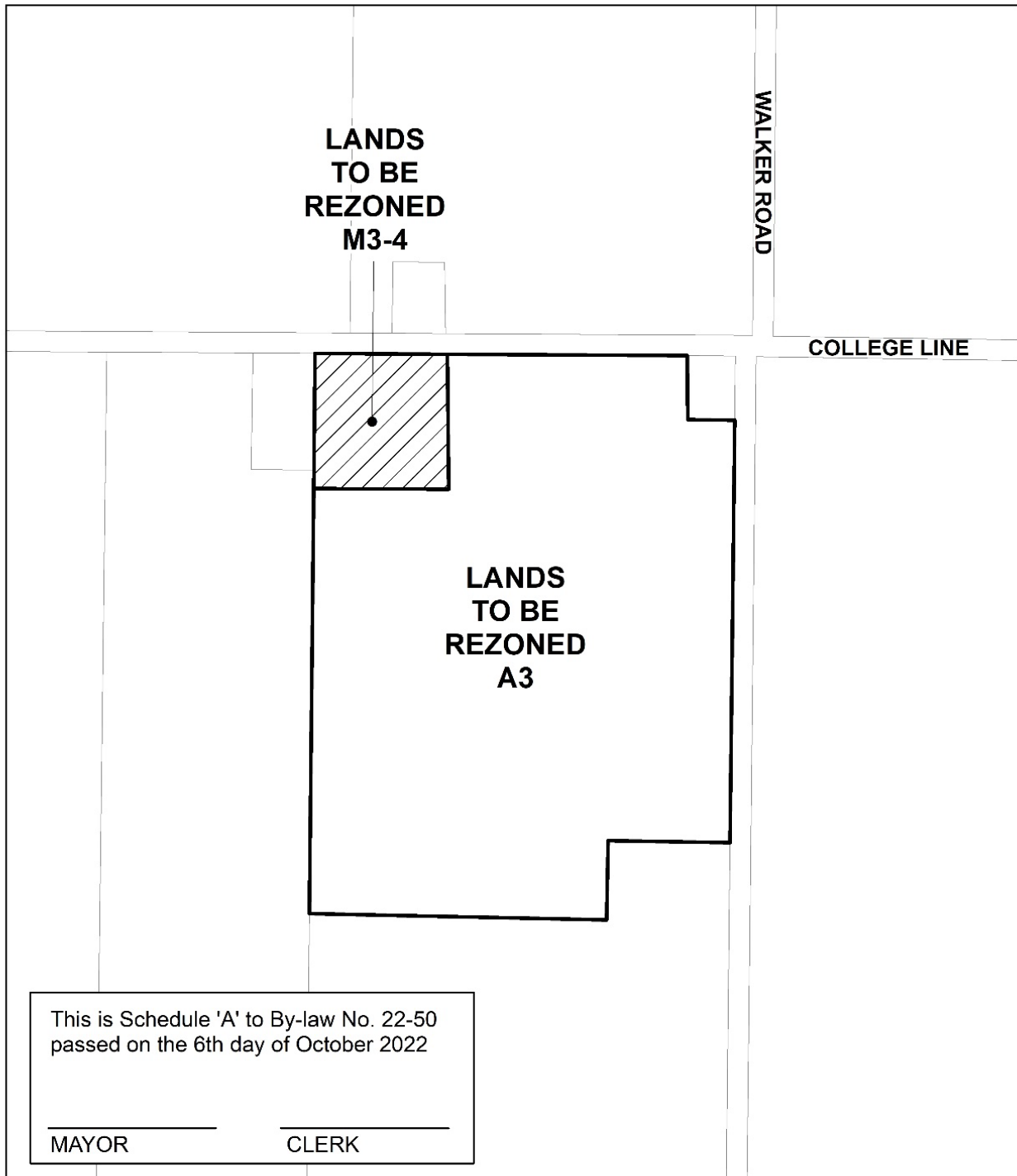
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Mayor – D. Mennill

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Clerk – A. Adams

## SCHEDULE A



0 37.5 75 150 Metres

Township of Malahide  
Comprehensive Zoning By-law No.18-22

**SCHEDULE 'A'**  
Map 39



## Report to Council

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**REPORT NO.:** DS-22-35

**DATE:** September 15, 2022 (Report submitted September 2, 2022)

**ATTACHMENT:** Application, By-law

**SUBJECT:** **ZONING BY-LAW AMENDMENT APPLICATION OF WILLIAM AND KATHERINE DESUTTER**

**LOCATION:** Part Lot 103, Concession STR, as in E199915 (Parcel 2) (52339 Talbot Line)

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### Recommendation:

**THAT Report No. DS-22-35 entitled “Zoning By-law Amendment Application of William and Katherine DeSutter” be received;**

**AND THAT the Zoning By-law Amendment Application No. D14-Z12-22 of William and Katherine DeSutter, relating to the property located at Part Lot 103, Concession STR, as in E199915 (Parcel 2) (52339 Talbot Line), BE APPROVED for the reasons set out in this Report.**

### Background:

The Subject Zoning By-law Amendment Application has been submitted by SBM Limited on behalf of William and Katherine De Sutter. The Zoning By-law Amendment is filed concurrently with a related consent application for a surplus farm dwelling severance. The Zoning Amendment proposes to rezone the retained parcel from ‘General Agricultural (A1)’ to ‘Special Agricultural (A2)’ and rezone the severed parcel from General Agricultural (A1)’ to ‘Small Lot Agricultural – Special (A4-25)’ to include a site-specific provision to recognize the existing front yard setback of 5.5 metres, where the By-law requires 15 metres.

The Application relates to the property located at Part Lot 103, Concession STR, and known municipally as 52339 Talbot Line.

Notice of the Application has been circulated to agencies and registered property owners as prescribed and regulated by the Planning Act, RSO 1990, and the Malahide Official Plan, including posting notice in two recent issues of the Aylmer Express.

The County Land Division Committee has scheduled a Public Hearing for the related consent application to be heard on September 28, 2022.

### **Comments/Analysis:**

The subject property is approximately 20.8 hectares in area, has approximately 511 metres of frontage on Carter Road, and a depth of approximately 408 metres. The subject lands currently contain a single detached dwelling, two accessory sheds, a barn, two silos, and two solar panels. The subject lands are bounded to the north by Talbot Line, to the east by Carter Road, and by agricultural land to the south and west.

Based on the information provided by the owner's agent SBM Limited, the owners reside on the subject lands and have entered into a purchase and sale agreement to convey the portion of the lands in agricultural field crop production to a bona fide farmer, who owns and resides on another farm parcel. The existing dwelling on the subject lands would be surplus to the purchasing farmer's needs as a result of farm consolidation.

### **Provincial Policy Statement (PPS)**

In Prime Agricultural Areas, the Provincial Policy Statement (PPS) permits lot creation for the purposes of severing an existing dwelling that has been rendered surplus as a result of farm consolidation, provided it is ensured that residential dwellings are prohibited on any remnant parcel of farmland (Section 2.3.4.1c). The proposed Zoning Amendment would rezone the proposed retained farmland to 'Special Agriculture Zone (A2)' that would prohibit the construction of a dwelling.

### **County of Elgin Official Plan**

The subject property is designated 'Agricultural Area' on Schedule 'A' – Land Use Plan of the County Official Plan. Lot creation is permitted for lands within this designation for the purposes of severing a residence surplus to a farming operation provided that development of a new residence is prohibited on any retained farmland (Section E1.2.3.4b). The proposed Zoning Amendment would address this requirement by rezoning the proposed retained farmland to 'Special Agriculture Zone (A2)' that would prohibit the construction of a dwelling.

### **Malahide Official Plan**

The subject property is designated 'Agricultural' on Schedule 'A1' (Land Use Plan). The Malahide Official Plan permits secondary uses including surplus farm dwellings on separate lots (Section 2.1.2.2). The Official Plan requires that the severed parcel be rezoned to a Special Agricultural zone that permits surplus farm dwellings (Section 2.1.7.2). The related Zoning Amendment would rezone the severed lot to the 'Small Lot Agricultural (A4)' Zone, which is applied to lots created by consent to dispose of a surplus farm dwelling. The proposed severed lot meets the minimum lot area requirements of the Zoning By-law.

The Official Plan also requires that the proposed retained parcel meet the provisions of the 'Special Agriculture (A2) Zone', and be rezoned to prohibit the establishment of a dwelling (Section 2.1.7.4). The Zoning Amendment would rezone the retained farm parcel to the 'Special Agricultural (A2) Zone' to prohibit the construction of a dwelling and the retained parcel meets the minimum lot area and frontage requirements.

### **Malahide Zoning By-law No. 22-18**

The subject property is zoned 'General Agricultural (A1)' on Schedule 'A', Map No. 31 of the Township of Malahide Zoning By-law No. 22-18. The Zoning By-law Amendment proposes to rezone the retained parcel to 'Special Agriculture (A2)' to prohibit the construction of a dwelling on the farm parcel and the proposed lot would meet the minimum lot area and frontage requirements of the Zoning By-law.

As previously noted, the Zoning By-law Amendment application also proposes to rezone the severed parcel to 'Small Lot Agriculture Special (A4-XX)'. This zone is intended to be applied to lots that created as a result of a surplus farm dwelling severance to reflect the primary use of the lot being for residential purposes. The proposed rezoning would also include a site-specific provision to recognize the existing front yard setback of 5.5 metres, where the By-law requires 15 metres.

### **Public/Agency Comments Received**

Notice of Public Meeting was given in accordance with Planning Act regulations. As of the date of writing this report, no comments from the general public or agencies have been received. Any comments submitted will be summarized and provided for the information of the Council/Public at the Public Meeting.

At the time of writing this report, no agency or public comments have been received.

### **Financial Implications to Budget:**

The full cost of the consent and associated rezoning process is at the expense of the Applicant and has no implications to the Township's Operating Budget.

### **Relationship to Cultivating Malahide:**

The Cultivating Malahide Integrated Community Sustainability Plan (ICSP) is based upon four pillars of sustainability: Our Land, Our Economy, Our Community, and Our Government.

One of the goals that support the "Our Land" Strategic Pillar is "Protect & Enhance Malahide's Agricultural Character". By respecting the agricultural land base through the land use planning process, the Council is achieving this goal.

(signing page follows)

Submitted by:	Reviewed by:
Eric Steele, BES Monteith Brown Planning Consultants, <u>Consulting Planner for the Township</u>	Jay McGuffin, MCIP, RPP Monteith Brown Planning Consultants

Approved by:
Adam Betteridge, Chief Administrative Officer



# APPLICATION FOR A ZONING BY-LAW AMENDMENT & CONSENT TO SEVER

Bill and Kathy DeSutter

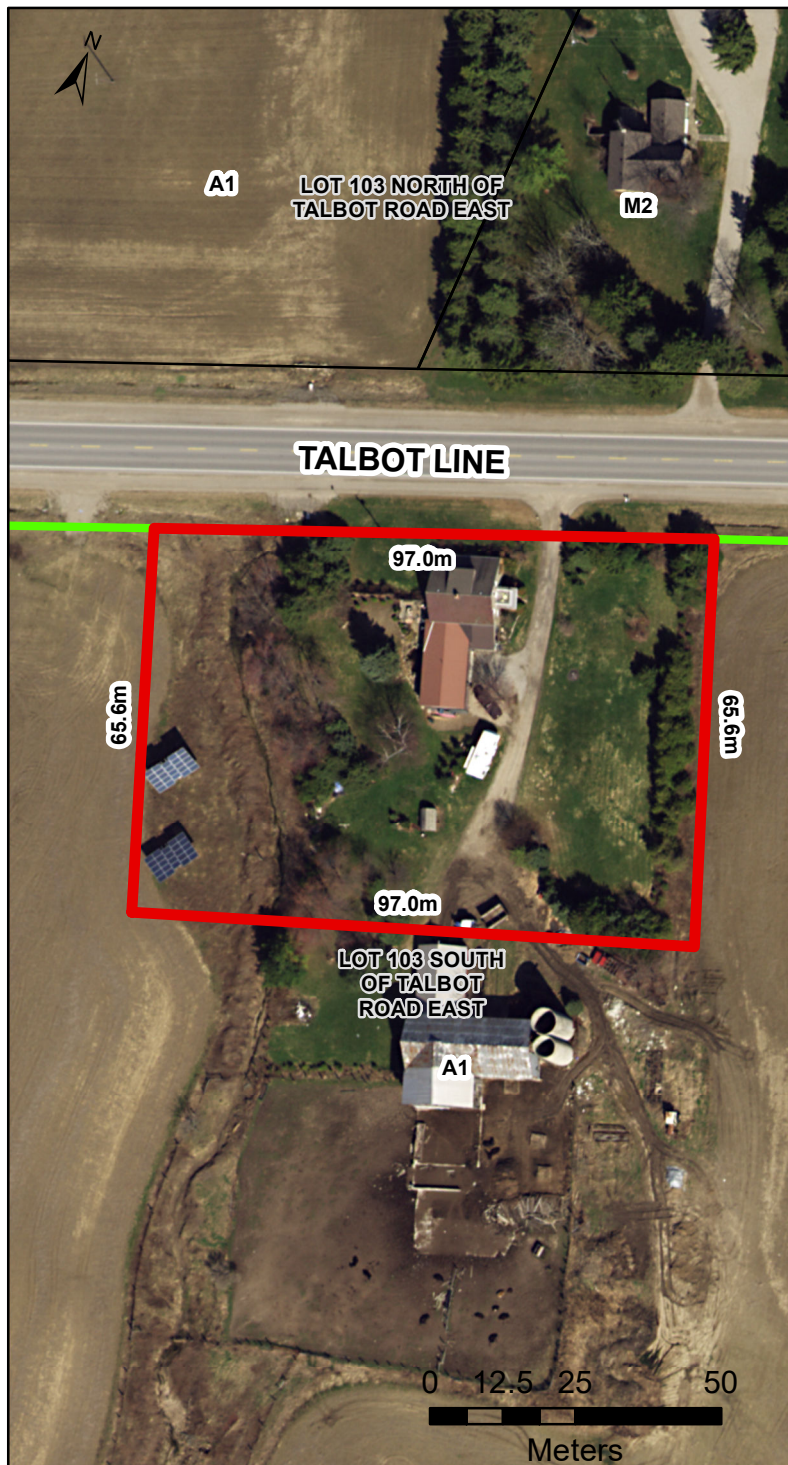
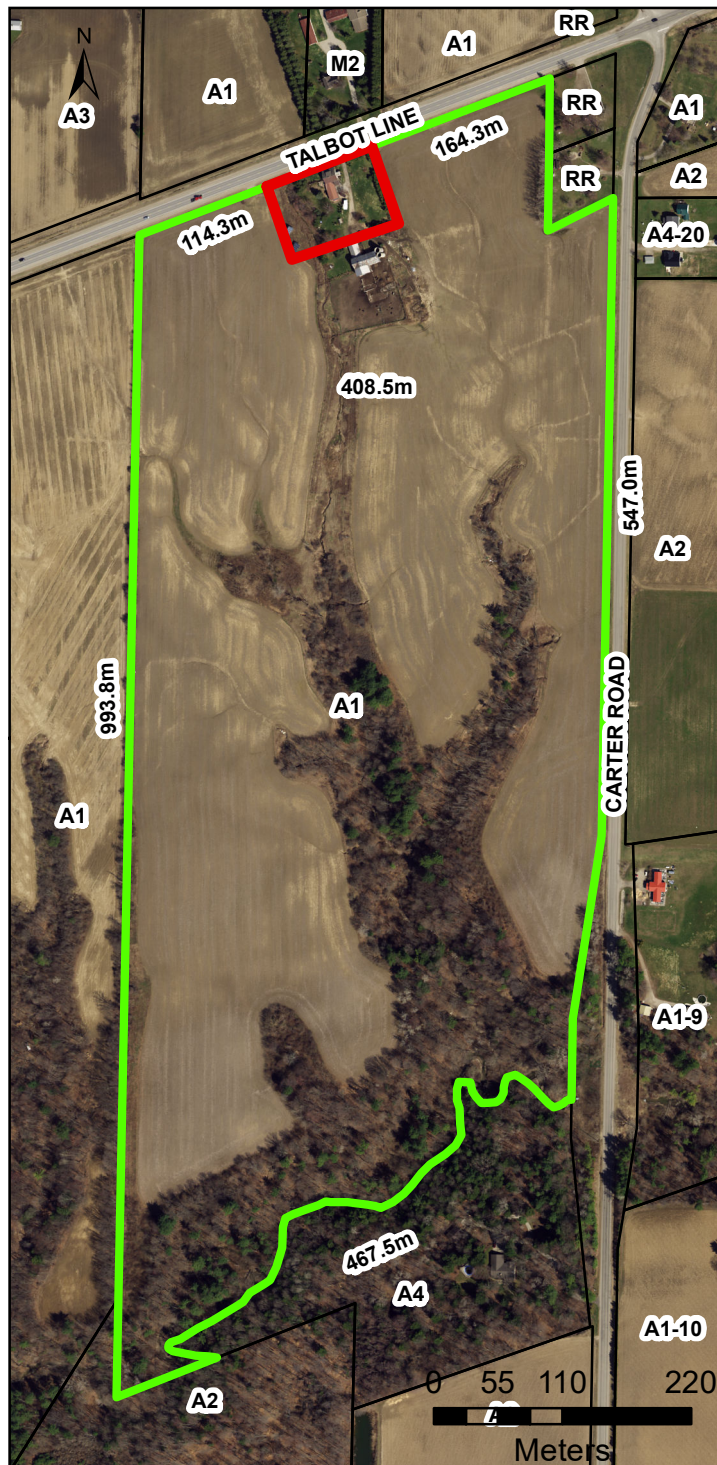
(Agent: Simona Rasanu c/o SBM Ltd.)

52339 Talbot Line

Part Lot 30, Concession 6 & Part Lot 103, Concession STR

Township of Malahide

Township  
of Malahide  
Figure 1



OFFICIAL PLAN DESIGNATION  
Agriculture

ZONING  
A1 General Agricultural



Lands to be Retained and Rezoned to Special Agricultural (A2) Zone



Lands to be Severed and Rezoned to Site-Specific Small Lot Agricultural (A4-25) Zone

1. **Registered Owner's Name:** William and Katherine DeSutter
- Address: 52339 Talbot Line, Aylmer, ON, N5H 2R1
- Phone No. (Home): 519-860-0532 (William) Business: \_\_\_\_\_
- Fax: \_\_\_\_\_ Email: w.desutter@hotmail.com
- Lot and Concession (if applicable): PT LT 103 CON STR MALAHIDE AS IN E199915 (PARCEL 2) EXCEPT 11R3587, MALAHIDE
- Are there any other holders of mortgages, charges or other encumbrances of the Subject Lands? If so provide the names and addresses of such persons.**
- See attached parcel register for existing charge info.
- 
2. **Applicant / Authorized Agent:** Strik Baldinelli Moniz Ltd. (c/o Simona Rasanu)
- Address: 1599 Adelaide St N, Unit 301, London, ON N5X 4E8
- Telephone No.: 519-471-6667 x 146 Email: srasanu@sbmltd.ca
- Please specify to whom all communications should be sent:**
- Registered Owner ( ) Applicant / Authorized Agent (X)
3. **Legal Description of the land for which the amendment is requested:**
- Concession: PT LT 103 CON STR MALAHIDE AS IN E199915 (PARCEL 2)
- Reference Plan No: EXCEPT 11R3587, MALAHIDE
- Street and Municipal Address No.: 52339 Talbot Line, Aylmer, ON, N5H 2R1
- What is the size of property which is subject to this Application?**
- Area: 36.4 ha m Frontage: 375.6 m (along Talbot Line) Depth: 547 m (along Carter Rd)
- When were the subject lands acquired by the current owner?** 1977
4. **Existing Official Plan Designation:** Elgin County OP: Agricultural Area; Malahide OP: Agriculture



How does the application conform to the Official Plan?

Please see attached Planning Justification Report.

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**5. Existing Zoning By-law Classification:**

A1 (General Agriculture)

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**What are the current uses of the subject lands?**

Agriculture

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**If known, provide the length of time these uses have continued on this property.**

More than 10 years

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**If there are any existing buildings or structures on the subject lands provide the following information:**

Type	Front Lot Line Setback	Side Lot Line Setbacks	Rear Lot Line Setback	Height	Dimension s
------	------------------------------	------------------------------	--------------------------	--------	----------------

Please see Severance Sketch attached to the Planning Justification Report.

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_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

**If known, provide the dates in which each of these buildings were constructed.**

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**6. What is the Nature and Extent of the Rezoning?**

Existing zoning is A1. Severed parcel would be rezoned to A4 & retained parcel would be rezoned to A2 in accordance with surplus farm dwelling severance policies.

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**7. Why is the rezoning being requested?**

Rezoning is triggered by the proposed surplus farm dwelling severance.

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8. Does the proposed Zoning By-law amendment implement a growth boundary adjustment of a settlement area? No

If so, attach separately justification or information for the request based on the current Official Plan policies or associated Official Plan amendment.

9. Does the proposed amendment remove land from an area of employment? No

If so, attach separately justification or information for the request based on the current Official Plan policies or associated Official Plan amendment.

10. Description of proposed development for which this amendment is requested (i.e. permitted uses, buildings or structures to be erected. (Be Specific)

Land severance only - no new buildings are proposed; existing old mill/barn and silos (i.e., accessory structures) would be removed.

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**For any proposed buildings or structures on the subject lands provide the following information:**

Type	Front Lot Line Setback	Side Lot Line Setbacks	Rear Lot Line Setback	Height	Dimensions
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Please see Severance Sketch attached to the Planning Justification Report.


11. Services existing or proposed for the subject lands: Please indicate with a ✓

Water Supply

Existing

Proposed

Municipal Piped Water Supply	(   )	(   )
Private Drilled Well	( X )	(   )
Private Dug Well	(   )	(   )
Communal Well	(   )	(   )
Lake or other Surface Water Body	(   )	(   )
Other	(   )	(   )

<b>Sewage Disposal</b>	<b>Existing</b>	<b>Proposed</b>
Municipal Sanitary Sewers	(   )	(   )
Individual Septic System	( X )	(   )
Communal System	(   )	(   )
Privy	(   )	(   )
Other	(   )	(   )

**Note: If the proposed development is on a private or communal system and generate more than 4500 litres of effluent per day, the applicant must include a servicing options report and a hydrogeological report.**

Are these reports  
attached?

Not Applicable

If not, where can they be  
found?

### **Storm Drainage**

Provisions:

Proposed Outlet:

Severed parcel - Provincial Highway  
Retained parcel: municipal road - maintained all year

### **12. How will the property be accessed?**

Provincial Highway (   )      County Road (   )      Municipal Road – maintained all year (   )

Municipal Road – seasonally maintained (   )      Right-of-way (   )      Water (   )

If access is by water, do the parking and docking facilities exist, and what is the nearest public road?

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**13. Has the subject land ever been the subject of an application under the Planning Act for:**

Plan of Subdivision (    )      Consent ( X )

Zoning By-law Amendment (    )      Ministers Zoning Order (    )

**If yes to any of the above, indicate the file number and status of the application.**

Concurrent consent application is submitted.

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**14. How is the proposed amendment consistent with the Provincial Policy Statement 2005?**

Please see attached Planning Justification Report.

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**15. Are the subject lands within area designated under any Provincial Plan(s)? If the answer is yes, does the proposed amendment conform to the Provincial Plan(s)?**

No

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**17. The Owner is required to attach the following information with the application and it will form part of the application. Applications will not be accepted without the following.**

- (a) A sketch based on an Ontario Land Surveyor description of the subject lands showing
- the boundaries and dimension of the subject lands;
  - the location, size and type of all existing and proposed buildings and structures, indicating their setbacks from all lot lines, the location of driveways, parking or loading spaces, landscaping areas, planting strips, and other uses;
-

- the approximate location of all natural and artificial features (buildings, railways, roads, watercourses, drainage ditches, banks of rivers or streams, wetlands, wooded areas, wells and septic tanks) that are on the subject lands, adjacent to the subject lands, or in the opinion of the applicant may affect the application;
  - the current uses of the land that is adjacent to the subject land;
  - the location, width, and name of any roads within or abutting the subject land, indicating where it is an unopened road allowance, a public traveled road, a private road, or a right-of-way;
  - the location of the parking and docking facilities to be used (if access will be by water only);
  - the location and nature of any easement affecting the subject land.
- (b) Written comments from the Elgin St. Thomas Health Unit, Long Point Region Conservation Authority and Ministry of Transportation (if applicable).
- (c) If a private sewage system is necessary, pre-consultation with the Chief Building Official is required about the approval process Please see Severance Sketch attached to Planning Justification Report.
- 18. If this application is signed by an agent or solicitor on behalf of an applicant(s), the owner's written authorization must accompany the application. If the applicant is a corporation acting without an agent or solicitor the application must be signed by an officer of the corporation and the seal if any must be affixed.**

**19. Additional Information as required by Council**

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**20. If this application is to accommodate the consent of a surplus farm dwelling, please provide the following information:**

Date surplus farm dwelling was erected:

Before 1977, when the existing owners purchased the property with the dwelling already constructed.

Please provide the assessment roll number, location, and zoning of the farm parcel with which the subject lands is being consolidated.

312824 Dereham Line, Mount Elgin, ON; AROLL 32110100302430; A2 General Agricultural



### Municipal Freedom of Information Declaration

In accordance with the provisions of the Planning Act, it is the policy of the Township Planning Department to provide public access to all development applications and supporting documentation.

Personal information contained on this form is collected pursuant to the Planning Act, R.S.O. 1990, O.Reg 200/96 as amended and will be used for the purpose of determining permission for re-zoning. The personal information collected will be maintained in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, as amended.

In submitting this development application and supporting documentation, I Bill DeSutter  
K. DESUTTER

the owner authorized applicant, hereby acknowledge the above-noted policy and provide my consent, in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, that the information on this application and any supporting documentation provided by myself, my agents, consultants and solicitors, will be part of the public record and will also be available to the general public.

I hereby authorize the Township of Malahide to post a Change of Use sign and municipal staff to have access to the subject site for purposes of evaluation of the subject application.

Bill DeSutter K. DeSutter 22 7- 2022  
Signature Day Month Year

I / We, Bill DeSutter  
KATHY DESUTTER , of the MALAHIDE  
Name Town/Township/City/Village etc.

of \_\_\_\_\_ , in the county ELGIN , do solemnly declare:  
Municipality Name County Name



- (i) that I / We am / are the owner(s) of the lands described above
- (ii) that to the best of my / our knowledge and belief, all of the information and statements given in this application and in all exhibits transmitted are true.
- Strik Baldinelli Moniz Ltd. (c/o Simona Rasanu)
- (iii) that I / we hereby appoint \_\_\_\_\_ to act as an Agent on my/our behalf in all aspects of this application.

And I / We make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the "Canada Evidence Act".

DECLARED BEFORE ME at the:

City of London Simona Rasanu  
 \_\_\_\_\_ Owner / Agent  
 in the County/Region of Middlesex this 22nd  
 of July 20 22.  
 day of \_\_\_\_\_  
 \_\_\_\_\_  
 Owner / Agent

Kevin Andrew Moniz  
 \_\_\_\_\_  
 A Commissioner, etc.

**KEVIN ANDREW MONIZ,**  
 a Commissioner, etc., Province of Ontario,  
 for Strik, Baldinelli, Moniz Ltd.  
 and S&B Geomatics Ltd.  
 Expires November 30, 2023.



# PLANNING JUSTIFICATION REPORT

## 52339 TALBOT LINE, MALAHIDE

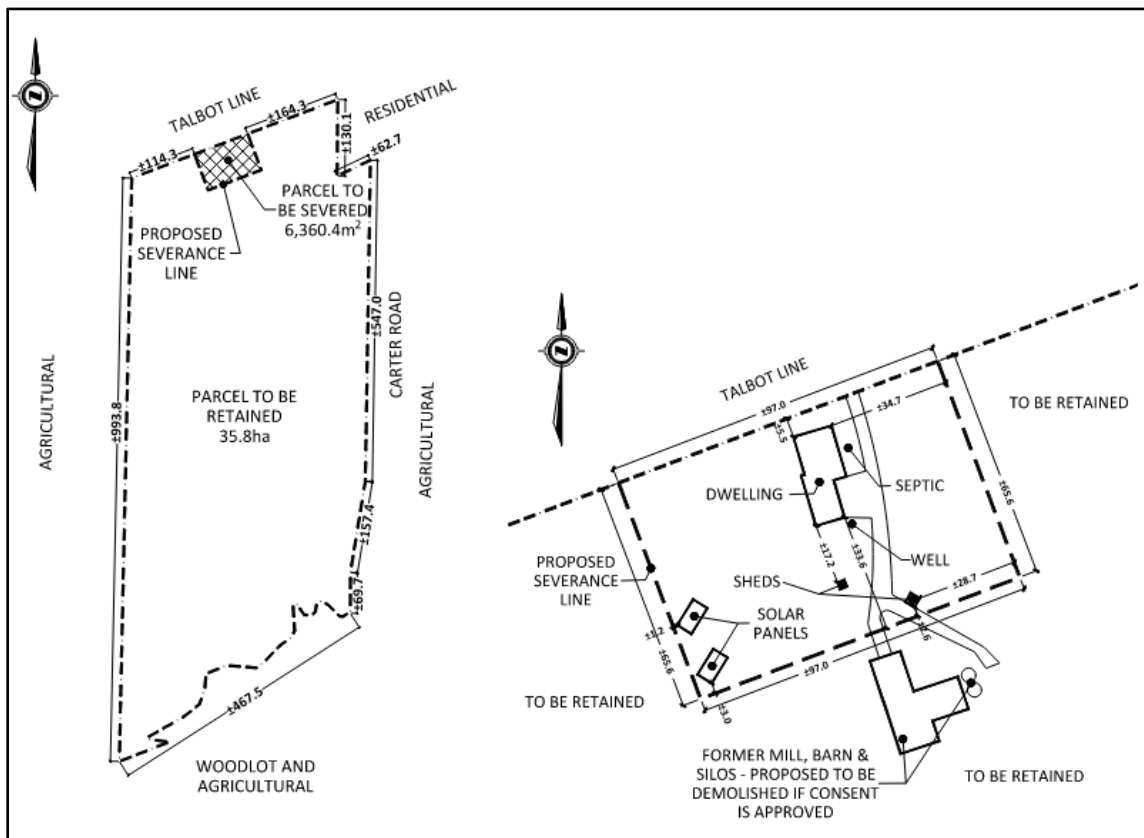
### PROPOSED ZONING BY-LAW AMENDMENT AND CONSENT APPLICATIONS TO PERMIT A SURPLUS FARM DWELLING SEVERANCE

Prepared for:  
William and Katherine DeSutter  
52339 Talbot Line  
N5H 2R1

Prepared by:  
Strik, Baldinelli, Moniz Ltd.  
#301, 1599 Adelaide Street North  
London, ON N6B 2H8

SBM-22-1267

July 2022



July 22, 2022

SBM-22-1267

Attn: Chloe Cernanec, Development Services Technician/Assistant Planner  
Township of Malahide  
87 John Street South  
Aylmer, ON N5H 2C3

**RE: Planning Justification Report – 52339 Talbot Line, Township of Malahide**

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Strik, Baldinelli, Moniz Ltd. has been retained by William and Katherine DeSutter (the “Existing Owners”) to prepare and submit Zoning By-law Amendment and consent applications for the property municipally known as 52339 Talbot Line located in east Malahide to permit a surplus farm dwelling severance.

This report provides a review and analysis of the applicable relevant policies in support of the proposed Zoning By-law Amendment and consent applications, which are being submitted concurrently. The consent application will be submitted to Elgin County, as required. Should you have any questions or require additional information, please do not hesitate to contact the undersigned.

Respectfully submitted,

**Strik, Baldinelli, Moniz Ltd.**

Planning • Civil • Structural • Mechanical • Electrical



Simona Rasanu, RPP, MCIP  
Planner

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### **Appendix D – Pre-Application Consultation Meeting Communication with Christine Strupat (email received June 21/22)**

## **1 INTRODUCTION**

The purpose of the following land use Planning Justification Report is to evaluate the proposed Zoning By-Law Amendment and consent applications within the context of existing land use policies and regulations, including the Planning Act, Provincial Policy Statement, County of Elgin Official Plan, the Malahide Official Plan, and the Malahide Zoning By-law.

The report demonstrates that the applications are in keeping with Provincial, County and Municipal land use planning policies, are suitable for the subject lands, and would be compatible with neighbouring land uses. This report and associated appendices are intended to comprise a “Complete” Application and are reflective of the discussions and correspondence that have been held prior to this formal submission. Although a formal pre-application consultation meeting was requested with Township of Malahide staff, or their delegates, it was not deemed necessary by staff. Email correspondence between the agent and Malahide staff (i.e., Christine Strupat), dated June 21/22, is attached as Appendix D.

## **2 SITE DESCRIPTION**

The Subject Property is a rural farm property in east Malahide, Elgin County, located between Carter Road and Walker Road, south of Talbot Line and Glencolin Line, and north of Chalet Line (see **Figure 1** in Appendix A). The Subject Property is an irregularly shaped parcel with an area of 36.4 hectares and a lot frontage of 375.6 metres along Talbot Line and 547 metres along Carter Road (see **Figure 2** in Appendix A).

The northcentral portion of the Subject Property is improved with a single detached dwelling constructed more than 45 years ago (the attached garage was a later addition), and five accessory structures, namely a combined former mill and barn structure, two silos and two small sheds. Two solar panels are located west of the single detached dwelling – these are not considered accessory structures (see Surplus Farm Severance Sketch in Appendix B for details) (the “Severance Sketch”). Additional information about the existing accessory structures is provided in Section 4 below. A site visit of the Subject Property was conducted on July 15, 2022 and the photos in Appendix B were taken.

Elgin County aerial mapping identifies most of the south and some of the central portions of the Subject Property as forested, as shown in Figure 2 in Appendix A, and subject to Catfish Creek Conservation Authority Regulation Limits (see **Figure 4** in Appendix A). The workable farm area of the Subject Property is used for growing cash crops (i.e., corn, hay and soybeans).

The Subject Property is accessed from Talbot Line via a primary gravel driveway – an additional unpaved dirt path is available from Carter Road. It is serviced by a privately owned water well and a private septic system - locations are shown on the Severance Sketch.

### **3 SURROUNDING CONTEXT**

The surrounding land uses include actively cultivated agricultural lands interspersed with forested/woodland areas, particularly to the south of the Subject Property, as well as a few rural residential lots such as 52427 Talbot Line and 9131 Carter Road, which abut the Subject Property to the east. A portion of 52513 Talbot Line to the east is zoned M2-10 and associated with a welding business (i.e., Intake Welding Inc.). Aerial mapping shows a variety of lot sizes.

### **4 DEVELOPMENT PROPOSAL**

The Existing Owners have owned and lived at the Subject Property since 1977 and have advised that they wish to keep the residential portion with a total proposed area of 6,360.4 square metres, identified as the “Parcel to be Severed” on the Severance Sketch. The proposed severed parcel would include the single detached dwelling and attached garage, two small sheds (i.e., accessory structures) and the two solar panels shown on the Severance Sketch. As per an Agreement of Purchase and Sale (APS) dated April 14, 2022, they have secured a buyer identified as Renkema Family Farms Ltd. (the “Purchasing Farmer”) for the remnant agricultural land. The APS is conditional on the Existing Owners identified as the “seller” in the APS and the Purchasing Farmer identified as the “buyer” obtaining a severance. The APS also states that the Existing Owners/seller will be responsible for completing the severance, paying all severance costs and satisfying any requirements imposed by the approval authority with the full cooperation of the Purchasing Farmer/seller.

The retained lands identified on the Severance Sketch as the “Parcel to be Retained” would have a total area of 35.8 hectares, a workable farm area of approximately 24.3 hectares, and would continue to be used for growing cash crops. The existing former mill/barn structure, two silos (including their foundations), as well as any remaining paddocks and cement behind the barn visible in aerial photos (see **Figure 3** in Appendix B), would be removed by the Existing Owners if the consent is approved. The removal of these structures is also a condition of the sale outlined in the APS to ensure the Purchasing Farmer can plant crops in the future (the “Severance Proposal”). The Purchasing Farmer owns two existing farm properties, including their principal residence, with a total of 76.9 hectares of land farmed. As such, the Subject Property dwelling is unnecessary and surplus to their farming operation.

The severed parcel would continue to have access from Talbot Line and the retained parcel would have the option of creating a new ingress/egress from either Talbot Line or Carter Road, although Carter Road is proposed to be used for ingress/egress.



## **5 PLANNING FRAMEWORK**

### **5.1 Existing Planning Framework**

The existing planning framework includes the *Planning Act, 1990*, the Provincial Policy Statement (2020), the County of Elgin Official Plan (2015), the Malahide Official Plan (2013), and Malahide Zoning By-law No. 18-22.

### **5.2 Required Planning Applications**

A consent application is required to facilitate the Severance Proposal, which would be supported by a required Zoning By-law Amendment application to rezone the severed lands with the surplus dwelling and accessory structures from the existing General Agricultural (A1) Zone to the Small Lot Agricultural (A4) Zone. Moreover, as required by the PPS, the County Official Plan and the Malahide Official Plan, the retained lands would be rezoned from the A1 Zone to the Special Agriculture (A2) Zone to reflect the prohibition against new residential dwellings on the retained agricultural lands. Further details will be provided below in the zoning analysis of this report.

### **5.3 *Planning Act***

The *Planning Act, 1990*, as amended, is the provincial legislation that outlines how land use planning can be practiced in Ontario – it sets out rules and regulations which describe requirements for planning processes, how land uses may be controlled and by whom. Amendments to section 53(1) the *Planning Act* that came into force on January 1, 2022 allow a purchaser of land to apply for a consent application on their own behalf, but only if the agreement of purchase and sale expressly authorizes this. In the case of the subject consent application, the APS states that the Existing Owners/seller will be responsible for completing the severance, paying all severance costs, and satisfying any requirements (i.e., conditions) imposed by the approval authority with the full cooperation of the Purchasing Farmer/Seller. Therefore, although the Existing Owners are submitting the consent application, information is also provided by the Purchasing Farmer to satisfy Elgin County consent application form requirements respecting surplus farm dwelling severances. The Existing Owners only own the Subject Property and do not qualify for a surplus farm dwelling severance since they cannot demonstrate farm consolidation, as required by the Provincial Policy Statement (2020).

Section 51(24) of the *Planning Act* outlines the criteria that need to be considered when evaluating consent applications, including the effect of the proposed subdivision on matters of provincial interest; the dimensions and shapes of the proposed lots; the suitability of the land for the purposes for which it is subdivided; and whether the plan conforms to the official plan and any adjacent plans of subdivision.

The Severance Proposal is a surplus farm dwelling severance to dispose of the farm dwelling and existing associated accessory structures that are not required by the Purchasing Farmer to support the agricultural use as they own and live at another farm property. The lot size of the retained parcel would be 35.8 hectares, which complies with the minimum lot size of 20 hectares required by the A2 Zone, and the lot frontage would be 278.6

metres, or almost two times the required lot frontage of 150 metres. No variances have been identified for the retained parcel. As the zoning chart for the severed parcel indicates, one existing variance (i.e., front yard depth) has been identified – this is an existing condition and not impacted or exacerbated by the Severance Proposal.

The proposed severance would have no impact on the agricultural viability of the retained parcel and the latter would continue to be used for agricultural purposes. The proposed severed parcel is suitable for its existing residential use – it has a habitable dwelling currently occupied by the Existing Owners and a private water well and septic tank identified on the Severance Sketch that are both in satisfactory condition. As Section 5.5 and 5.6 of this report will indicate, the Severance Proposal conforms to the County and Municipal Official Plan. In summary, the Severance Proposal conforms to Section 51(24) of the *Planning Act*.

#### **5.4 Provincial Policy Statement (2020)**

Any land use planning decision shall be consistent with the Provincial Policy Statement (PPS). The PPS provides direction for municipalities to promote efficient development and land use patterns, including intensification, and a wide array of residential types (Policy 1.1.1). It also directs municipalities to focus new growth and development to settlement areas to best utilize infrastructure, minimize impacts of climate change, and efficiently use land and resources (Section 1.1.3). When development in rural settlement areas is proposed, consideration must be given to the rural characteristics, scale of development and the availability of appropriate services (Policy 1.1.4.3).

The Subject Property is an existing farm in the Township of Malahide and located in the “prime agricultural areas”. The policies under Section 2.3.4.1, respecting lot creation in these areas, state the following:

*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.*

As noted above, Section 2.3.4.1c) specifically addresses surplus farm dwelling severances. The dwelling associated with the Severance Proposal meets the definition of a “*residence surplus to a farming operation*”, which is defined as: “*an existing habitable farm residence that is rendered surplus as a result of farm consolidation (the acquisition of additional farm parcels to be operated as one farm operation).*”

The severed parcel (i.e., new lot) would have a lot area of 6,360.4 square metres, which complies with the minimum lot size of 2,000 square metres for the proposed new zone (i.e., A4). As previously noted, the existing buildings on the retained parcel would be demolished if the consent application is approved. The retained parcel is not proposed to have any new residential buildings and would be rezoned to reflect this in accordance with PPS Section 2.4.4.4c)2. In summary, the Severance Proposal is consistent with the PPS.

## 5.5 County of Elgin Official Plan

The Township of Malahide is one of seven municipalities within Elgin County. The County Official Plan (Schedule ‘A’ Land Use) designates the Subject Property as Agricultural Area (see **Figure 5** in Appendix A). These lands are characterized as the County’s “*prime agricultural area*”, unless otherwise provided for in lower tier Official Plans (Section C2.2). Permitted uses include:

- a) agricultural uses;
- b) a single detached dwelling in conjunction with an agricultural use;
- c) a single detached dwelling on an existing vacant lot, subject to the policies of the lower tier Official Plan;
- d) accessory accommodation subject to Section C2.5;
- e) agriculture-related uses subject to Section C2.6; and
- f) secondary uses subject to Section C2.7, among others (Section C2.3).

Section E1.2.3 outlines policies respecting the creation of new lots on lands designated Agricultural Area.

Section E1.2.3.1 outlines general criteria for consent applications. The criteria will be outlined and responses provided, as follows:

- a) *fronts on and will be directly accessed by a public road that is maintained on a year-round basis;*

Response: The Subject Property has an existing access onto Talbot Line, which is classified as a Provincial Highway and Tourism Corridor on Schedule ‘B’ of the Elgin Official Plan. Since it is a corner property and has a dual frontage, it can also have access onto Carter Road, a local road.

- b) *does not have direct access to a Provincial Highway or County Road, unless the Province or the County permits a request for access;*

Response: The severed parcel would need to maintain the existing access onto Talbot Line, notwithstanding that it is a Provincial Highway. There is an existing unpaved access (i.e., dirt path) from Carter Road immediately south of the 9131 Carter Road property that can be used to access the retained parcel.

*c) will not cause a traffic hazard;*

Response: The severed parcel would continue to use the existing gravel access to enter the property from Talbot Line. Although the retained parcel would have frontage and access to both Talbot Line and Carter Road, Carter Road is proposed to be used for ingress/egress. There is no reason to believe that the Severance Proposal would cause a traffic hazard.

*d) has adequate size and frontage for the proposed use in accordance with the local municipal Zoning By-law;*

Response: The lot areas/size and lot frontage of the two proposed parcels are shown on the Severance Sketch. Both metrics comply with the Malahide Zoning By-law standards.

*e) notwithstanding d) above, where a zoning by-law amendment or minor variance is required, approval of such amendment or variance shall be included as a condition of the approval of the consent;*

Response: A Zoning By-law Amendment application is required and will be submitted concurrently to ensure the zoning for both the severed and retained parcels is appropriate for their respective uses.

*f) can be serviced with an appropriate water supply and means of sewage disposal, provided there is confirmation of sufficient reserve sewage system capacity and reserve water system capacity within municipal sewage services and municipal water services;*

Response: The Severance Sketch identifies the existing private septic tank/bed and water well, which would be located entirely within the severed parcel boundaries. The Elgin County consent form requires documentation confirming that the private services are in satisfactory condition and these documents are included in the submission package.

*g) will not have a negative impact on the drainage patterns in the area;*

Response: The Severance Proposal would have no impact on the area drainage patterns.

*h) will not restrict the development of the retained lands or other parcels of land, particularly as it relates to the provision of access, if they are designated for development by this Plan;*

Response: The Severance Proposal conforms to this criterion.

*i) will not have a negative impact on the significant features and functions of any natural heritage feature; in this regard, lots should be restricted in size in order to conserve other lands in larger blocks for natural heritage purposes;*

Response: The central portions of the Subject Property that are proposed to be included in the retained parcel are subject to a “Woodlands” natural heritage classification as per Appendix #1 Natural Heritage Features and Areas

of the County Official Plan (see **Figure 6** in Appendix A). As these natural heritage features will not be included in the severed parcel, the Severance Proposal would have no impact on them.

*j) will not have a negative impact on the quality and quantity of groundwater available for other uses in the area;*

Response: The Severance Proposal would have no impact on the quantity and quality of area groundwater.

*k) will not have an adverse effect on natural hazard processes such as flooding and erosion;*

Response: The Severance Proposal would have no negative impacts on natural hazard processes.

*l) conform with the local Official Plan; and,*

Response: Section 5.6 of this report will undertake an analysis of the relevant Malahide Official Plan policies and outline how the Severance Proposal would conform.

*m) will conform to Section 51 (24) of the Planning Act, as amended.*

Response: As noted in Section 5.3 of this report, the Severance Proposal would conform to Section 51(24) of the *Planning Act*.

Section E1.2.3.4 of the County Official Plan addresses lot creation on lands in the Agriculture Area designation. Policy E1.2.3.4.a) is not relevant as the severed parcel would not be a new farm lot. Policy E1.2.3.4.c) is also not relevant as the new lot is not required for an “agriculture-related use” as outlined in Section C2.6 of the Official Plan. Policy E1.2.3.4b) is relevant and seems to be the only County policy referencing surplus farm dwelling severances:

*In accordance with the intent of this Plan to maintain and protect the agricultural resource of the County and direct the majority of new residential growth to settlement areas or existing vacant building lots, new lots may be permitted if the local Official Plan supports their creation and if:*

*b) 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, unless the retained parcel is the product of the merging in title of two adjacent agricultural parcels in which case a dwelling unit would be permitted as part of the operation;*

The proposed severed parcel has a habitable dwelling/residence that is surplus to the farming operations of the Purchasing Farmer. The Purchaser Farmer only requires the retained parcel to farm the lands - a new residential

building on the retained parcel is not proposed. Furthermore, as part of the Zoning By-law Amendment process, the zoning of the retained parcel is proposed to be changed from the existing General Agriculture (A1) Zone to a Special Agriculture (A2) Zone to reflect the prohibition against new dwellings on the remaining agricultural lands. In summary, the Severance Proposal conforms to the Elgin County Official Plan.

## 5.6 Malahide Official Plan

The Subject Property is designated Agriculture in the Malahide Official Plan (Schedule 'A1' Land Use) (see **Figure 6** in Appendix A). These lands are classified as “*prime agricultural areas*” (Policy 2.1.2.1) – uses may include surplus farm dwellings on separate lots. Section 2.1.7 outlines policies respecting farm consolidation and the severance of surplus farm dwellings. The policies will be individually identified and addressed with a response.

Policy 2.1.7.1 (amended by OPA Nos. 10 & 17) states the following:

*In accordance with the Provincial Policy Statement, farm consolidation shall mean the acquisition of additional farm parcels to be operated as one farm operation. Farm consolidation may result in the identification of existing farm dwellings which are rendered surplus to the consolidated farm operation. Consents to sever and convey existing farm dwellings which were built and occupied for a minimum of ten years, and which are surplus to a consolidated farm operation, may be permitted within the Agriculture designation in accordance with the following policies:*

*a) In the opinion of Council, a land use conflict shall not be created with agricultural operations or other existing land uses in the immediate area of the subject lands;*

Response: The existing residential dwelling has been located on the same lot as the agricultural operations to the rear without any apparent existing conflicts for more than 10 years and there is no reason to believe that the Severance Proposal would create any new land use conflicts.

Policy 2.1.7.2 states the following:

*The severed lot with the surplus farm dwelling shall (original underlined):*

- a) Be large enough to support a private sanitary sewage treatment and disposal system as determined by the appropriate approval authority, and be serviced by a potable water supply;*
- b) Be situated within approximately 100 metres of an opened travelled road and should not be positioned so as to require cultivatable farmland as part of the severed lot.*
- c) Meet the provisions of the applicable Minimum Distance Separation formula of OMAFRA;*
- d) Be rezoned in a Special Agricultural Zone in the Zoning By-law.*

Responses:

- a) As previously noted, the severed parcel would be supplied with potable water from the existing private water well and serviced by a private septic system – documents confirming the functionality of these services are included with the consent application submission package, as required by Elgin County.



- b) As shown on the Severance Sketch, the proposed severed lot fronts onto an opened travelled road (i.e., Talbot Line) and the existing dwelling is located less than 10 metres away from this road. The severed lot does not include any cultivatable farmland.

The Severance Proposal is exempt from MDS 1 for the following reasons:

- The Elgin County consent application form requires an MDS calculation if there are livestock barns within 750 metres of the dwelling on the retained lands pursuant to OMAFRA *The Minimum Distance Separation (MDS) Document Formulae and Guidelines for Livestock Facility and Anaerobic* (the “MDS Document”) Implementation Guideline #6. However, the existing dwelling is on the severed lands, not on the retained lands.
- Policy 2.1.3.2 of the Malahide Official Plan exempts surplus farm dwelling severances from the Minimum Distance Separation Formulae.

Finally, in response to Policy 2.1.7.2d) , the severed parcel is proposed to be rezoned to the Small Lot Agricultural (A4) Zone. Further details are provided in Section 5.7 of this report.

Policy 2.1.7.3 states the following:

*The severed lot with the surplus farm dwelling may (original underlined):*

*a) Include accessory buildings and structures if in the opinion of Township Council a land use conflict will not be created. Farm buildings which may be incompatible with the existing dwelling on the lot proposed to be severed may be required to be removed as a condition of the severance. Their location on the farm and the structural condition of such farm buildings will be evaluated as part of the planning process.*

Response: As noted in Section 4 of this report and identified on the Severance Sketch, there are currently two accessory structures (i.e., two small sheds) and two solar panels which are not characterized as accessory structures that are proposed to be incorporated into the boundaries of the severed parcel.

Policy 2.1.7.4 states the following:

*The parcel of property constituting the retained agricultural lands shall:*

- Comprise a size appropriate for the type of agricultural use(s) common in the area and be sufficiently large to maintain flexibility for future changes in the type or size of agricultural operation;*
- Meet the provisions of the Agricultural (A1) or Special Agricultural (A2) Zone regulations of the Zoning By-law;*

- c) Be rezoned to prohibit the placement, development, or establishment of any additional type or form of residential dwelling units thereon, regardless of changes in property boundary or ownership.*

Responses:

- a) The lands associated with the retained parcel are the same lands currently under cultivation so the Severance Proposal would have no effect on the agricultural operations. The retained parcel would have a lot area of 35.8 hectares and would be more than 1.5 times larger than the minimum lot area (A2 Zone) of 20 hectares.
- b) As shown on the Severance Sketch, the retained parcel would comply with the A2 Zone regulations of the Malahide Zoning By-law.
- c) As noted above, the retained parcel would be rezoned from the existing A1 Zone to the A2 Zone to conform to this policy.

Based on the foregoing arguments, the Severance Proposal would conform to the Malahide Official Plan.

## **5.7 Zoning Analysis and Proposed Zoning By-law Amendment**

The Malahide Zoning By-law has four agricultural zones: General Agriculture (A1) Zone, Special Agricultural (A2) Zone, Large Lot Agricultural (A3) Zone, and the Small Lot Agricultural (A4) Zone. The Subject Property is currently zoned A1 (see **Figure 8** in Appendix A).

To permit the surplus farm dwelling severance, a Zoning By-law Amendment application is required to change the zone of the severed parcel from A1 to a zone with a primary residential use – the two options are the RR Zone and the A4 Zone. The A4 Zone is proposed for the following reasons:

- a) As per the Malahide Zoning By-law, lots within the RR Zone are generally under 4,000 square metres and the severed parcel is proposed to be larger at 6,360.4 square metres to accommodate the existing solar panels.
- b) The Applicant has indicated a desire to potentially raise livestock and this use would be prohibited in the RR Zone but permissible in the A4 Zone.

Moreover, to conform to surplus farm dwelling policies that require the retained farm parcel to prohibit subsequent residential dwellings, it is proposed that the zoning of the retained agricultural lands be changed from the existing A1 Zone to the A2 Zone. The alternative is to retain the existing A1 Zone and add a special provision prohibiting any future residential buildings on the retained parcel. However, since the A2 Zone exists and

contemplates a surplus farm dwelling severance, the proposed zone change is likely the preferred option by the Township of Malahide.

The Severance Sketch provides zoning data charts for each of the severed and retained parcels to assist with the Zoning By-law Amendment analysis. No variances are identified for the retained parcel. The severed parcel zoning chart identifies one variance for the front yard depth – a minimum distance of 10 metres is required and the existing distance of the dwelling is 5.5 metres. This front yard depth is an existing condition. If it cannot be characterized as “legally non-conforming” due to the proposed severance, then a site-specific provision will be required.

A Zoning By-law Amendment application would be submitted at the same time as the consent application and it is acknowledged that any consent approval would be conditional upon a successful rezoning of the Subject Property.

## **6 CLOSING**

Based on a review of the relevant policies and regulatory framework for the Subject Property, the proposed consent and Zoning By-law Amendment applications are justified for the following reasons:

- The Severance Proposal is a surplus farm dwelling severance whereby the Purchasing Farmer owns multiple farm properties and seeks to dispose of the existing residence and accessory structures on the Subject Property that are not required for its farm operation. The retained parcel would continue to be used for cash crop farming. The severed parcel would not include any cultivated lands. The severed parcel would become a new lot for the Existing Owners so they may continue to live at their existing residence.
- The Severance Proposal is consistent with the PPS and conforms with the *Planning Act*, Elgin County Official Plan and the Malahide Official Plan.

For the reasons noted above and throughout this report, the proposed consent and Zoning By-law Amendment applications represent sound land use planning practice.

### **Strik, Baldinelli, Moniz Ltd.**

Planning • Civil • Structural • Mechanical • Electrical



Simona Rasanu, RPP, MCIP  
Planner

## Appendix A: Figures 1-7

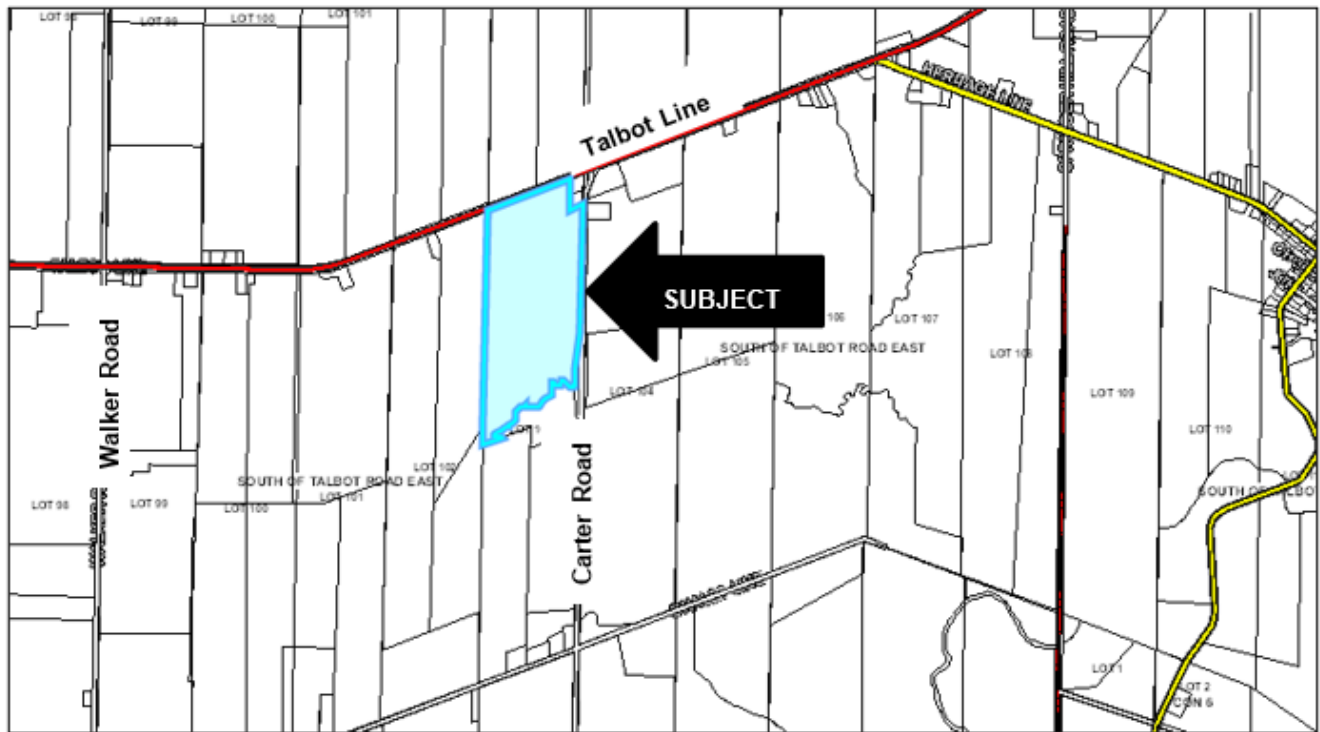


Figure 1. Subject Property outlined in blue (Source: Elgin Mapping)

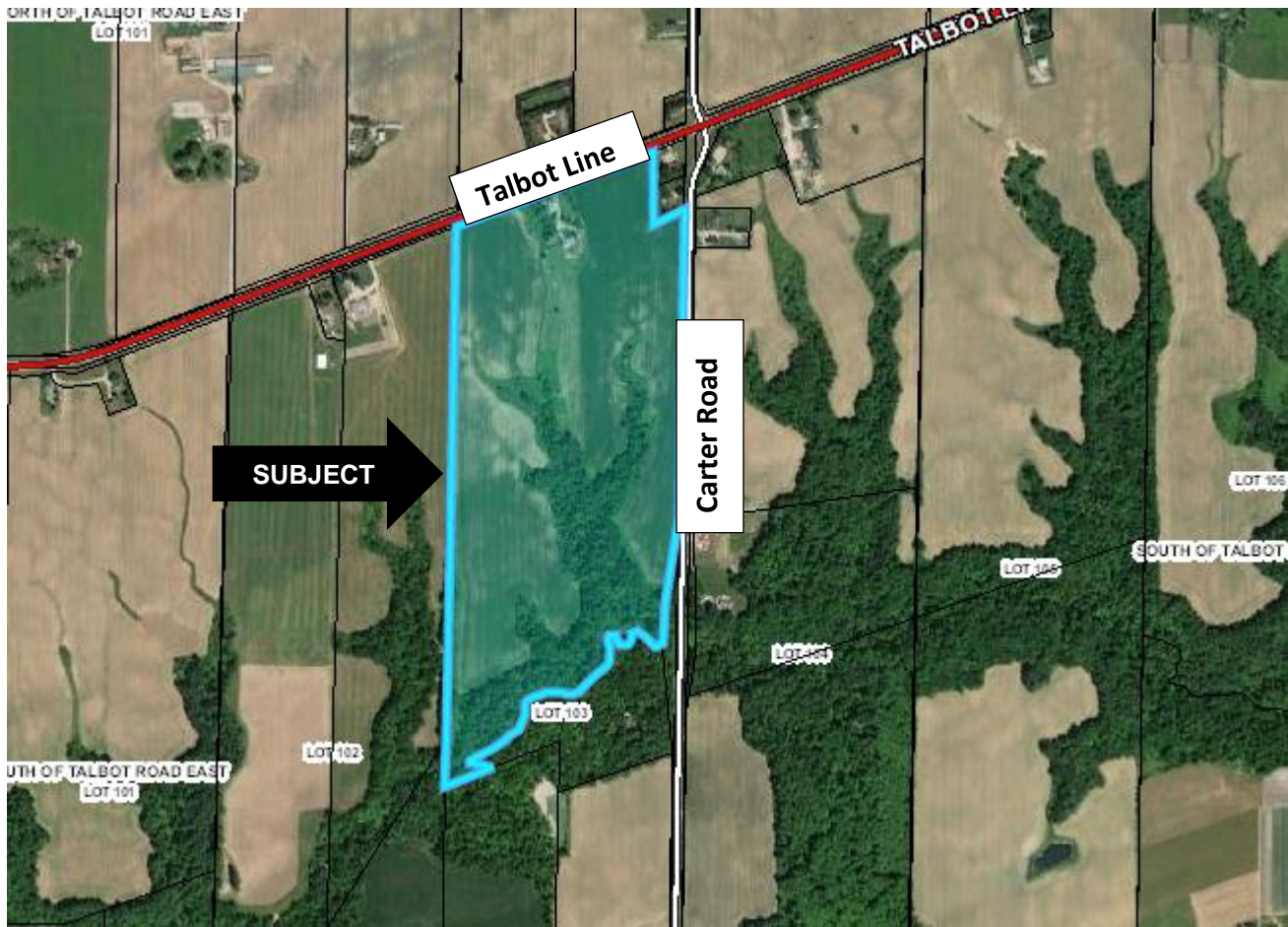
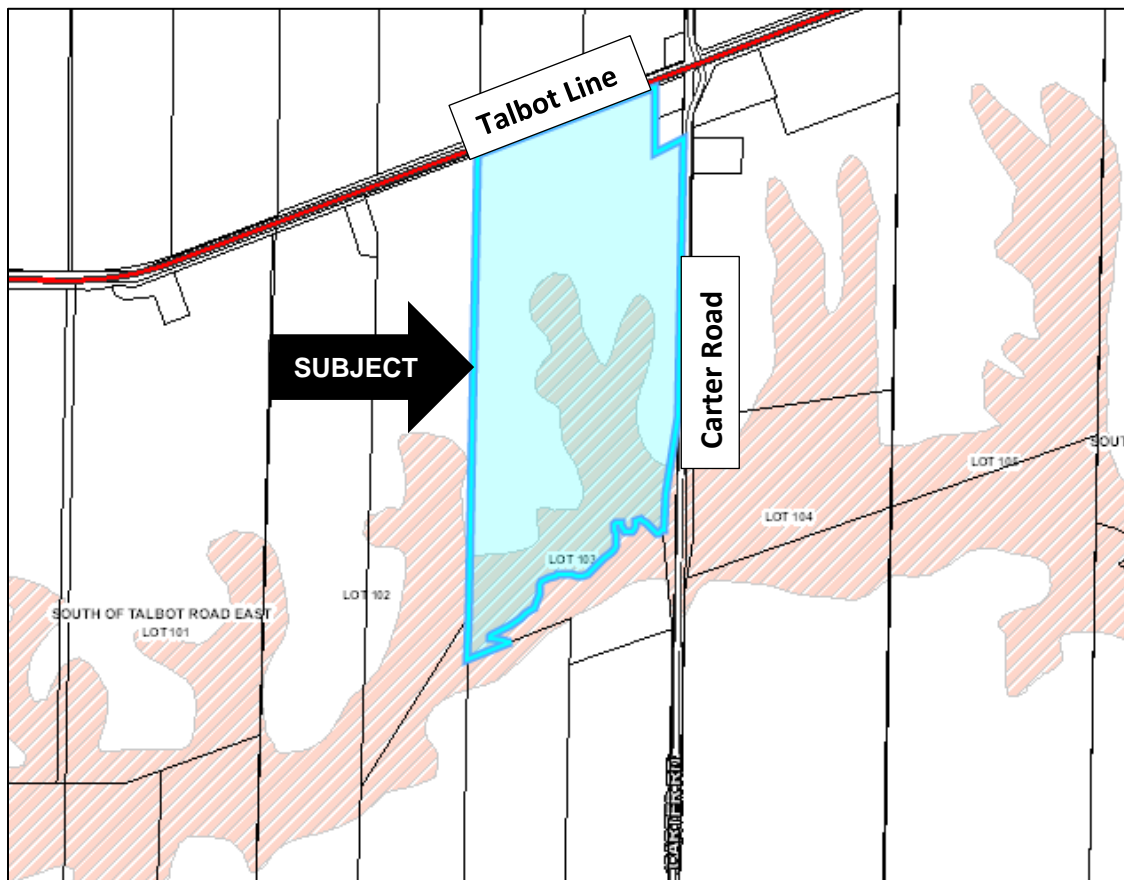


Figure 2. Aerial view of Subject Property (Source: Elgin Mapping)

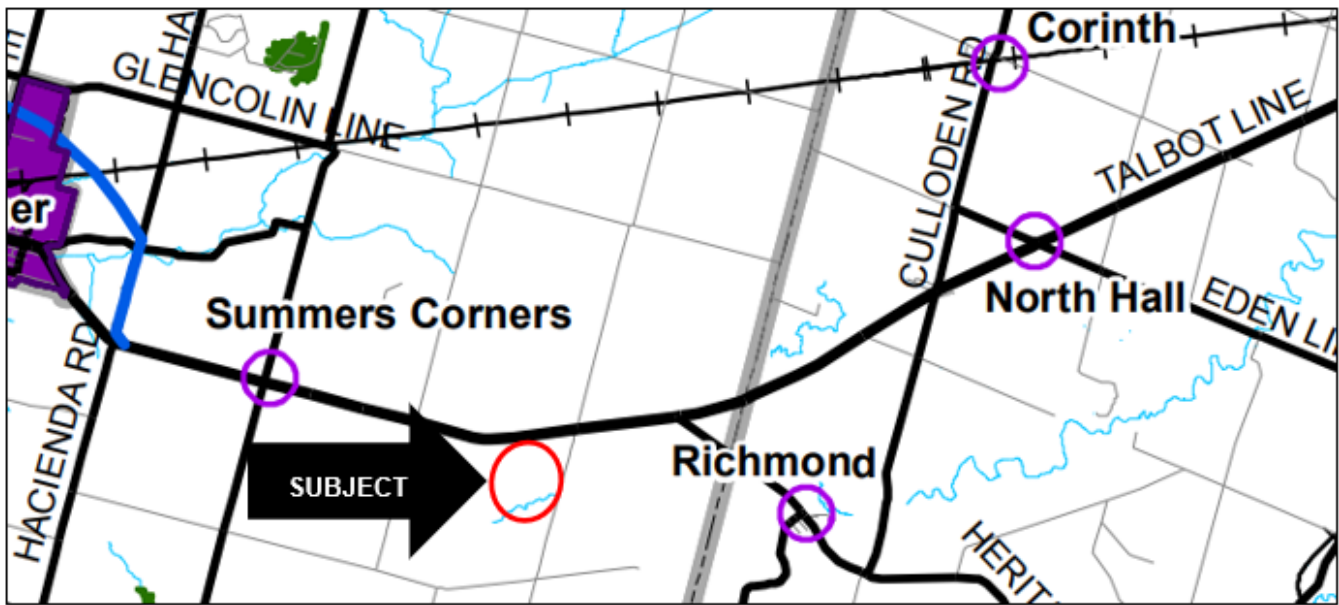


**Figure 3.** Aerial photo of portion of Subject Property proposed to be severed (Source: Elgin Mapping)





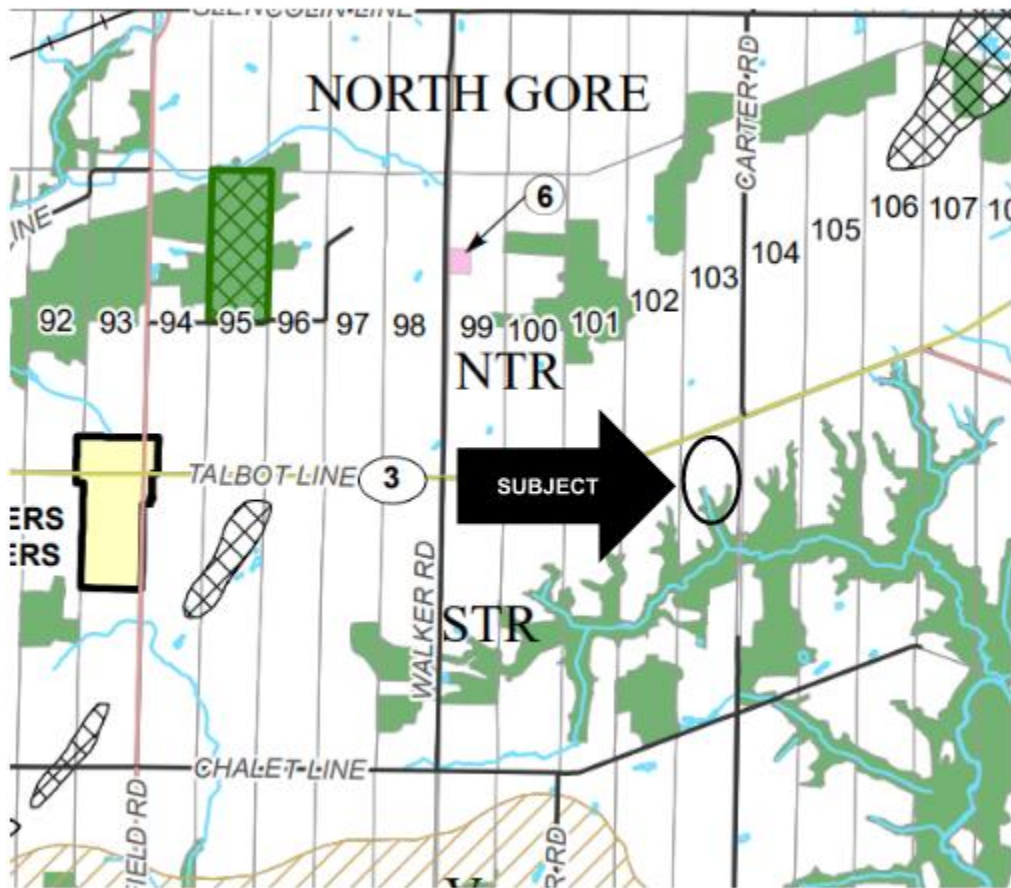
**Figure 4.** Subject Property showing Conservation Authority Regulation Limits (Source: Elgin Mapping)



**Figure 5.** Subject Property Elgin County Land Use Designation – *Agricultural Area* (Source: Schedule 'A')



**Figure 6.** Subject Property Elgin County Natural Heritage Features and Areas – *Woodlands* (Source: Appendix #1)



**Figure 7.** Subject Property Malahide Official Plan Land Use Designation – Agriculture (Source: Appendix “A1”)



**Figure 8.** Subject Property Existing Zoning – A1 (*General Agricultural*) (Source: Malahide Zoning By-law)



**Appendix B -Photos Nos. 1-7**

**Photo No. 1.** View of Subject Property dwelling from Talbot Line



**Photo No. 2.** View of dwelling and garage looking northwest





**Photo No. 3.** View of accessory structures – old mill/barn and silos looking south



**Photo No. 4.** View of accessory structures – old mill/barn and silos looking north





**Photo No. 5.** View of accessory structure – small shed and dog kennel



**Photo No. 6.** View of two solar panels looking north



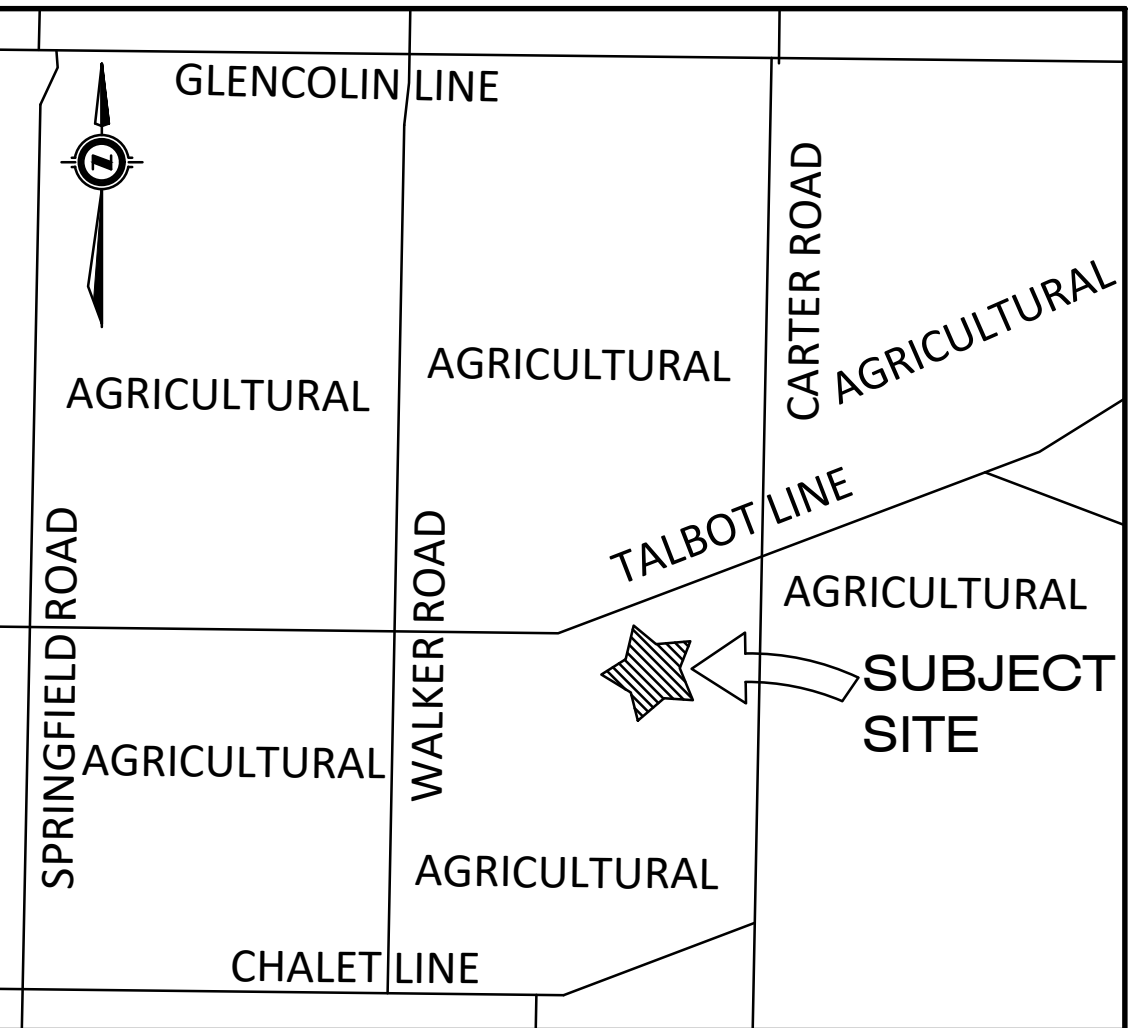
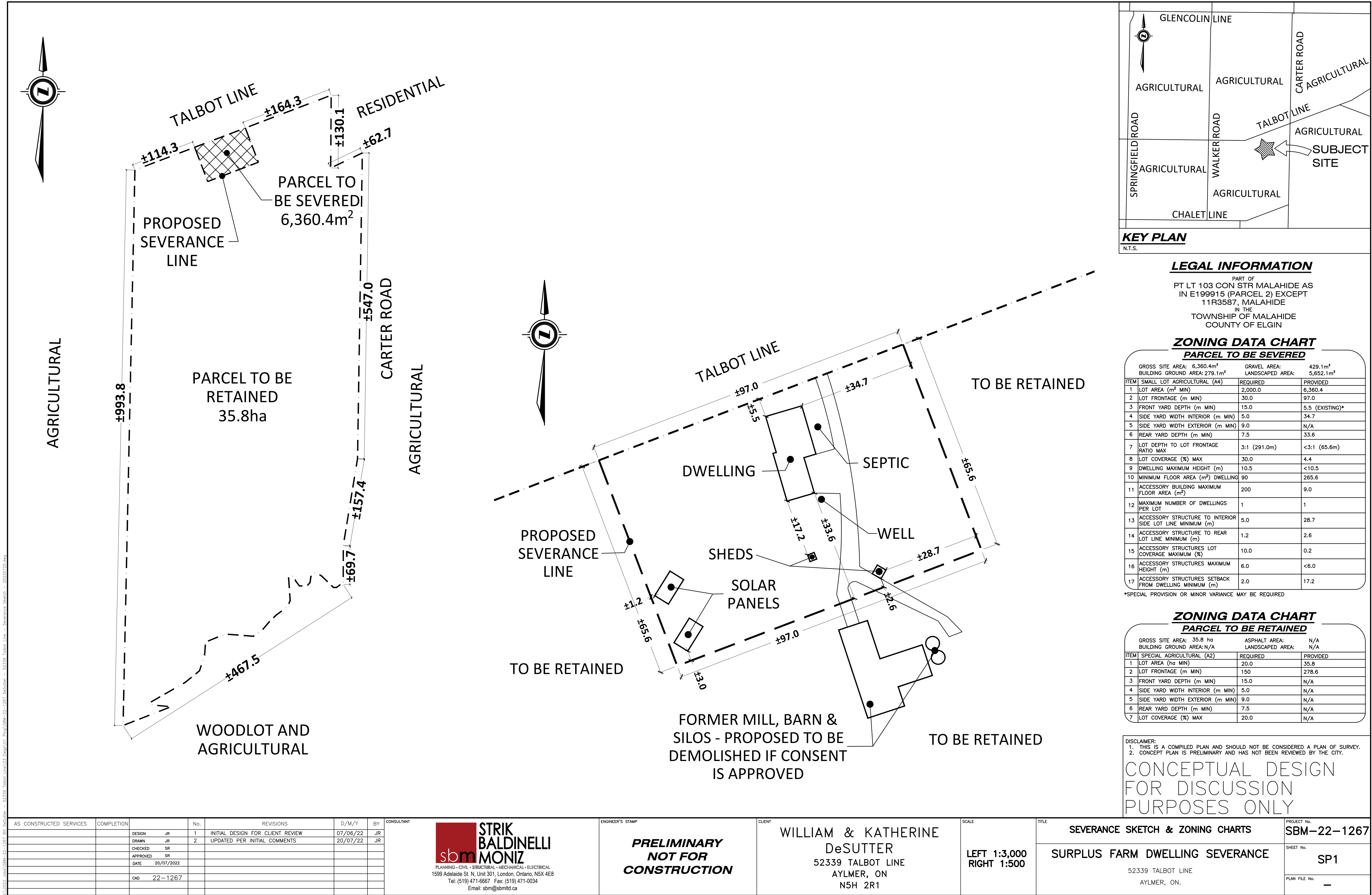


**Photo No. 7.** View of two solar panels looking south from Talbot Line

**Appendix C – Surplus Farm Severance Sketch**



**Appendix D – Pre-Application Consultation Meeting Communication with Christine Strupat (email received June 21/22)**



**KEY PLAN**  
N.T.S.

**LEGAL INFORMATION**  
PART OF  
PT LT 103 CON STR MALAHIDE AS  
IN E199915 (PARCEL 2) EXCEPT  
11R3587, MALAHIDE  
IN THE  
TOWNSHIP OF MALAHIDE  
COUNTY OF ELGIN

ZONING DATA CHART PARCEL TO BE SEVERED		
GROSS SITE AREA: 6,360.4m² BUILDING GROUND AREA: 279.1m²		
GRAVEL AREA: 429.1m² LANDSCAPED AREA: 5,652.1m²		
ITEM	REQUIRED	PROVIDED
1 LOT AREA (m² MIN)	2,000.0	6,360.4
2 LOT FRONTAGE (m MIN)	30.0	97.0
3 FRONT YARD DEPTH (m MIN)	15.0	5.5 (EXISTING)*
4 SIDE YARD WIDTH INTERIOR (m MIN)	5.0	34.7
5 SIDE YARD WIDTH EXTERIOR (m MIN)	9.0	N/A
6 REAR YARD DEPTH (m MIN)	7.5	33.6
7 LOT DEPTH TO LOT FRONTAGE RATIO MAX	3:1 (291.0m)	<3:1 (65.6m)
8 LOT COVERAGE (%) MAX	30.0	4.4
9 DWELLING MAXIMUM HEIGHT (m)	10.5	<10.5
10 MINIMUM FLOOR AREA (m²) DWELLING	90	265.6
11 ACCESSORY BUILDING MAXIMUM FLOOR AREA (m²)	200	9.0
12 MAXIMUM NUMBER OF DWELLINGS PER LOT	1	1
13 ACCESSORY STRUCTURE TO INTERIOR SIDE LOT LINE MINIMUM (m)	5.0	28.7
14 ACCESSORY STRUCTURE TO REAR LOT LINE MINIMUM (m)	1.2	2.6
15 ACCESSORY STRUCTURES LOT COVERAGE MAXIMUM (%)	10.0	0.2
16 ACCESSORY STRUCTURES MAXIMUM HEIGHT (m)	6.0	<6.0
17 ACCESSORY STRUCTURES SETBACK FROM DWELLING MINIMUM (m)	2.0	17.2

\*SPECIAL PROVISION OR MINOR VARIANCE MAY BE REQUIRED

ZONING DATA CHART PARCEL TO BE RETAINED		
GROSS SITE AREA: 35.8 ha BUILDING GROUND AREA: N/A		
ASPHALT AREA: N/A LANDSCAPED AREA: N/A		
ITEM	REQUIRED	PROVIDED
1 LOT AREA (ha MIN)	20.0	35.8
2 LOT FRONTAGE (m MIN)	150	278.6
3 FRONT YARD DEPTH (m MIN)	15.0	N/A
4 SIDE YARD WIDTH INTERIOR (m MIN)	5.0	N/A
5 SIDE YARD WIDTH EXTERIOR (m MIN)	9.0	N/A
6 REAR YARD DEPTH (m MIN)	7.5	N/A
7 LOT COVERAGE (%) MAX	20.0	N/A

DISCLAIMER:  
1. THIS IS A COMPILED PLAN AND SHOULD NOT BE CONSIDERED A PLAN OF SURVEY.  
2. CONCEPT PLAN IS PRELIMINARY AND HAS NOT BEEN REVIEWED BY THE CITY.

CONCEPTUAL DESIGN  
FOR DISCUSSION  
PURPOSES ONLY

AS CONSTRUCTED SERVICES	COMPLETION	No.	REVISIONS	D/M/Y	BY	CONSULTANT	ENGINEER'S STAMP	CLIENT	SCALE	TITLE	PROJECT No.
		DESIGN JR	1	INITIAL DESIGN FOR CLIENT REVIEW	07/06/22	JR				SEVERANCE SKETCH & ZONING CHARTS	SBM-22-1267
		DRAWN JR	2	UPDATED PER INITIAL COMMENTS	20/07/22	JR				SURPLUS FARM DWELLING SEVERANCE	SHEET No.
		CHECKED SR									SP1
		APPROVED SR									PLAN FILE No.
		DATE 20/07/2022									—
		CAD 22-1267									

STRIK  
BALDINELLI  
MONIZ

PLANNING • CIVIL • STRUCTURAL • MECHANICAL • ELECTRICAL  
1599 Adelaide St. N, Unit 301, London, Ontario, N5X 4E8  
Tel: (519) 471-6667 Fax: (519) 471-0034  
Email: sbm@sbmltd.ca

**PRELIMINARY  
NOT FOR  
CONSTRUCTION**

WILLIAM & KATHERINE  
DeSUTTER  
52339 TALBOT LINE  
AYLMER, ON  
N5H 2R1

LEFT 1:3,000  
RIGHT 1:500

SEVERANCE SKETCH & ZONING CHARTS  
SURPLUS FARM DWELLING SEVERANCE  
52339 TALBOT LINE  
AYLMER, ON.

**THE CORPORATION OF THE  
TOWNSHIP OF MALAHIDE  
BY-LAW NO. 22-64**

Being a By-law to amend By-law No. 18-22

**Bill & Kathy DeSutter/Simona Rasanu (c/o Strik Baldinelli Moniz Ltd.)  
52339 Talbot Line**

**WHEREAS** the Council of The Corporation of the Township of Malahide deems it necessary to pass a By-law to amend By-law No. 18-22, as amended;

**AND WHEREAS** authority is granted under Section 34 of the Planning Act, as amended, to pass a By-law;

**AND WHEREAS** this By-law conforms with the Official Plan of the Township of Malahide, as amended;

**NOW THEREFORE** the Council of The Corporation of the Township of Malahide **HEREBY ENACTS AS FOLLOWS:**

1. **THAT** the area shown in bold on the attached map, Schedule "A", and described as Concession 6 N, Part Lot 30 & Concession South of Talbot Road, Part Lot 103 (Concession South of Talbot Road) in the Township of Malahide, shall be removed from the "General Agricultural (A1) Zone" of By-law No. 18-22 and placed within the "Special Agricultural (A2) Zone" of By-law No. 18-22 as set forth in this By-law. The zoning of this land shall be shown as "A2" on Key Map 58 of Schedule "A" to By-law No. 18-22, as amended.
2. **THAT** the area shown in hatching on the attached map, Schedule "A", and described as Concession 6 N, Part Lot 30 & Concession South of Talbot Road, Part Lot 103 (Concession South of Talbot Road), in the Township of Malahide, shall be removed from the "General Agricultural (A1) Zone" of By-law No. 18-22 and placed within the "Small Lot Agricultural (A4) Zone" of By-law No. 18-22 as set forth in this By-law. The zoning of this land shall be shown as "A4-25" on Key Map 58 of Schedule "A" to By-law No. 18-22, as amended.
3. **THAT** By-law No. 18-22, as amended, is hereby further amended by amending Section 5.7 SMALL LOT AGRICULTURAL (A4) ZONE – 'SITE-SPECIFIC' ZONES, by adding the following new subsection.

**"5.7.25 a) Defined Area**

A4-25 as shown on Schedule 'A', Map No. 58.

**b) Minimum Lot Frontage  
5.5m**

4. **THAT** this By-law shall come into force:

- a) Where no notice of objection has been filed with the Township's Clerk within the time prescribed by the Planning Act and regulations pursuant thereto, upon the expiration of the prescribed time; or,
- b) Where notice of objection has been filed with the Township's Clerk within the time prescribed by the Planning Act and regulations pursuant thereto, upon the approval of the Ontario Land Tribunal.

**READ** a **FIRST** and **SECOND** time this 6th day of October, 2022.

**READ** a **THIRD** time and **FINALLY PASSED** this 6th day of October, 2022.

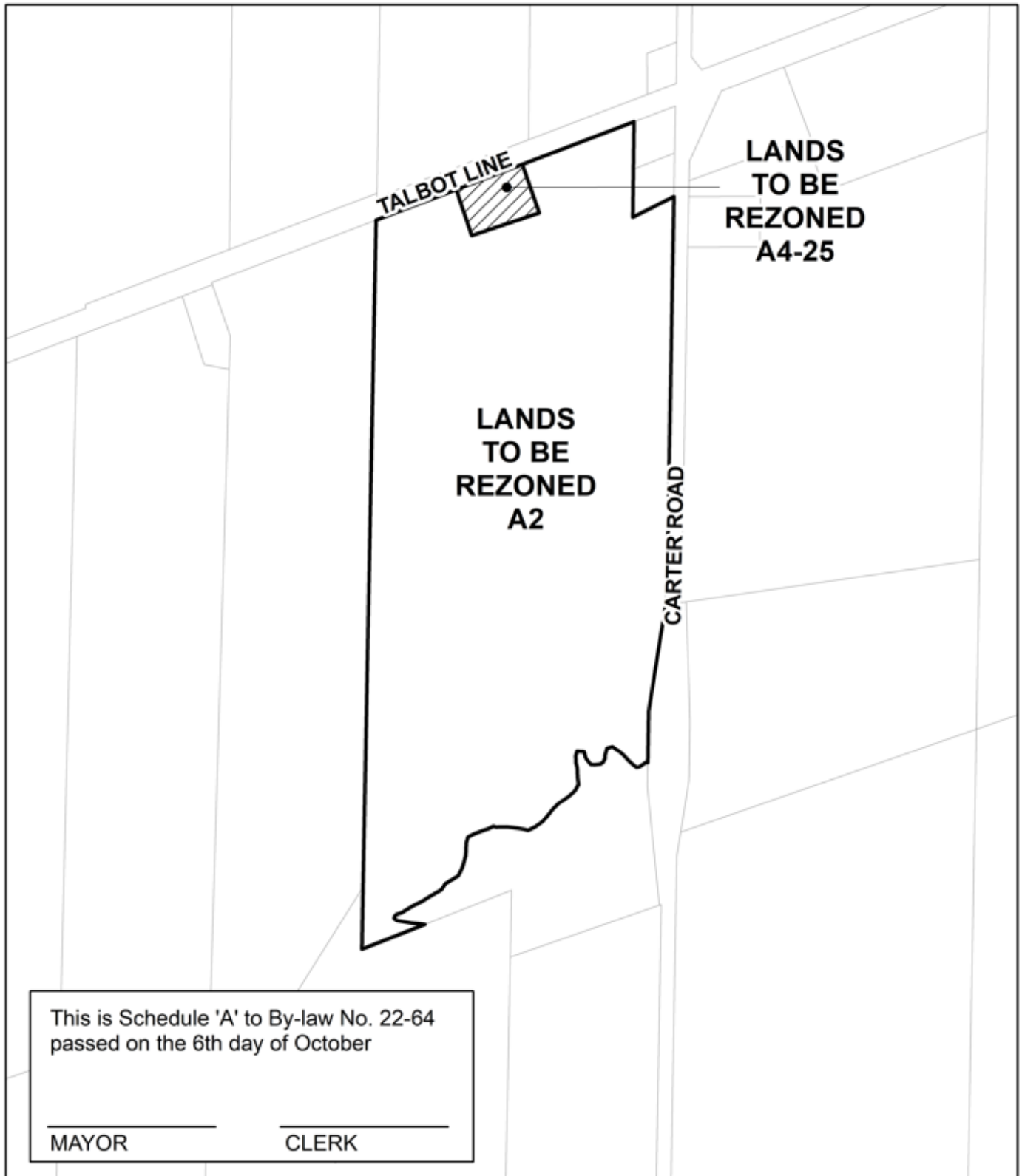
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Mayor – D. Mennill

---

Clerk – A. Adams

## SCHEDULE A



0 50 100 200 Metres

Township of Malahide  
Comprehensive Zoning By-law No.18-22

**SCHEDULE 'A'**  
Map 58





## Report to Council

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**REPORT NO.:** DS-22-41

**DATE:** October 6, 2022 (Report submitted September 28, 2022)

**ATTACHMENT:** Application, By-law

**SUBJECT:** **ZONING BY-LAW AMENDMENT APPLICATION OF HENRY HIEBERT, (AUTHORIZED AGENT: SIMONA RASANU C/O SBM LIMITED)**

**LOCATION:** Part Lot 33, Concession 4 S (Geographic Township of Malahide)

---

### Recommendation:

**THAT Report No. DS-22-41 entitled “Zoning By-law Amendment Application of Henry Hiebert” be received;**

**AND THAT the Zoning By-law Amendment Application No. D14-Z13-22 of Henry Hiebert, relating to the property located at Part Lot 33, Concession 4 S (53008 Calton Line), BE APPROVED for the reasons set out in this Report.**

### Background:

The Subject Zoning By-law Amendment Application has been submitted by SBM Limited on behalf of Henry Hiebert. The Zoning By-law Amendment is filed concurrently with a related consent application for a lot addition to permit the conveyance of land from the subject property to the adjacent, undersized existing parcel. The Zoning Amendment proposes the land to be conveyed from ‘Small Lot Agricultural (A4)’ to ‘Rural Residential (RR)’.

The Application relates to the property located at Part Lot 33, Concession 4 S, and known municipally as 53008 Calton Line.

Notice of the Application has been circulated to agencies and registered property owners as prescribed and regulated by the Planning Act, RSO 1990, and the Malahide Official Plan, including posting notice in two recent issues of the Aylmer Express.

The County Land Division Committee has scheduled a Public Hearing for the related consent application to be heard on September 28, 2022.

## **Comments/Analysis:**

The lands proposed to be severed comprise an area of approximately 1,882.3 m<sup>2</sup> with a depth of approximately 59.8 metres and a frontage of approximately 31.5 metres on Calton Line. The land proposed to be severed is vacant land. Since the land proposed to be conveyed is different than the property receiving the lot addition, under Section 3.5 of the Zoning By-law the zone boundaries would be considered lot lines for the purposes of the By-law. Therefore, a Zoning By-law Amendment is proposed to rezone the lands to be conveyed to be consistent with the Zoning of the lands receiving the lot addition.

### **County of Elgin Official Plan**

The subject property is designated 'Agricultural Area' on Schedule 'A', Land Use Plan. Boundary adjustments are permitted in accordance with Section E1.2.3.2 of the Plan, provided that no new lot is created and the viability of the agricultural parcels are not affected. The proposed rezoning would only apply to lands to be conveyed and would not impact surrounding agricultural uses.

### **Malahide Official Plan**

The subject property is designated 'Agriculture', on Schedule 'A'; - Land Use Plan. Lot adjustments, lot additions and minor boundary changes are permitted in any land use designation in accordance with Section 8.7.1.7, provided they comply with the applicable requirements of the Official Plan and the Zoning By-law. The proposed rezoning would ensure that the Zoning of the lands receiving the lot addition is consistent.

### **Malahide Zoning By-law No. 18-22**

The subject property is zoned 'Small Lot Agricultural (A4)' on Schedule 'A', Map No. 61 to the Township of Malahide Zoning By-law No. 18-22. The parcel proposed to be enlarged is zoned 'Rural Residential (RR)'.

### **General Comments**

The Development Services Staff has considered the merits of the subject application against applicable Provincial and Official Plan policies and recommends that Council support the Application. The Development Services Staff has also considered comments provided (if any) by other internal departments.

As of the date of writing there have been no general comments received from the surrounding property owners.

### **Financial Implications to Budget:**

The full cost of the consent process is at the expense of the Applicant and has no implications to the Township's Operating Budget.

### **Relationship to Cultivating Malahide:**

The Cultivating Malahide Integrated Community Sustainability Plan (ICSP) is based upon four pillars of sustainability: Our Land, Our Economy, Our Community, and Our Government.

One of the goals that support the "Our Land" Strategic Pillar is "Protect & Enhance Malahide's Agricultural Character". By respecting the agricultural land base through the land use planning process, the Council is achieving this goal.

Submitted by:	Reviewed by:
Eric Steele, BES Monteith Brown Planning Consultants, <u>Consulting Planner for the Township</u>	Jay McGuffin, MCIP, RPP Monteith Brown Planning Consultants

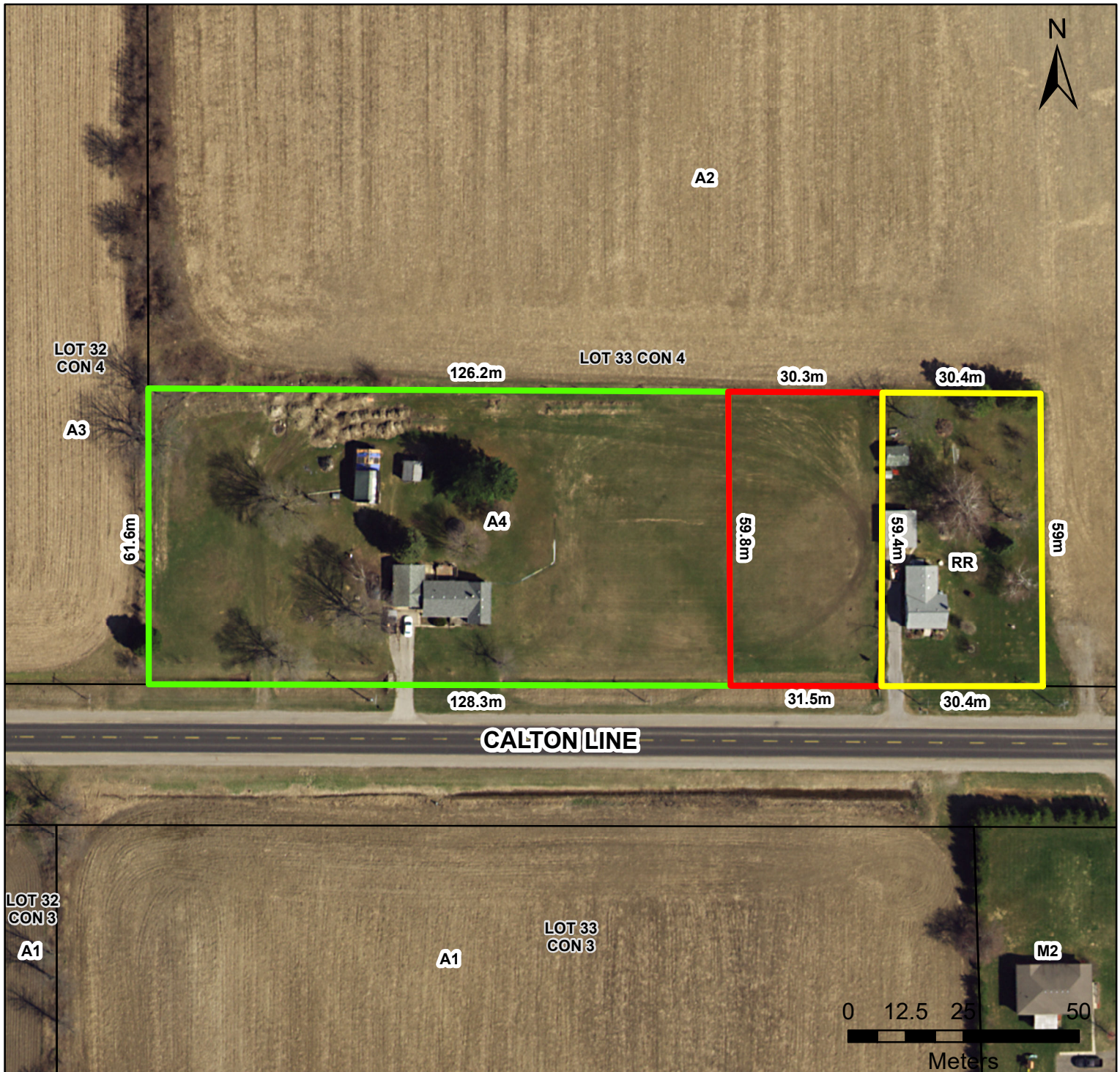
Approved by:
Adam Betteridge, Chief Administrative Officer

# APPLICATION FOR A ZONING BY-LAW AMENDMENT & CONSENT TO SEVER

Henry Hiebert (53008 Calton);  
Shawn Morgan George Senior & Roslyn Anne Snior (53052 Calton)  
(Agent: Simona Rasanu c/o SBM Ltd.)

53008 and 53052 Calton Line  
Part Lot 33, Part of Concession 4 South  
Township of Malahide

Township  
of Malahide  
Figure 1



OFFICIAL PLAN DESIGNATION  
Agriculture

ZONING  
A4 Small Lot Agricultural



Lands to be Retained



Lands to be Severed and Rezoned Rural Residential (RR) Zone



Lands to which the severed lot will be conveyed as lot addition



1. **Registered Owner's Name:** See attached document for contact info of 53008 Calton Line and 53052 Calton Line owners.
- Address: \_\_\_\_\_
- Phone No. (Home): \_\_\_\_\_ Business: \_\_\_\_\_
- Fax: \_\_\_\_\_ Email: \_\_\_\_\_
- Lot and Concession (if applicable): \_\_\_\_\_

**Are there any other holders of mortgages, charges or other encumbrances of the Subject Lands? If so provide the names and addresses of such persons.**

\_\_\_\_\_

\_\_\_\_\_

2. **Applicant / Authorized Agent:** SBM Ltd. (c/o Simona Rasanu)
- Address: 1599 Adelaide St N Unit 301, London, ON N5X 4E8
- Telephone No.: 519-471-6667 x 146 Email: srasanu@sbmltd.ca  
Fax: \_\_\_\_\_

**Please specify to whom all communications should be sent:**

Registered Owner ( ) Applicant / Authorized Agent ☒

3. **Legal Description of the land for which the amendment is requested:**
- Concession: Part of Concession 4 South Lot: \_\_\_\_\_
- Reference Plan No: \_\_\_\_\_ Part Lot: Part Lot 33
- Street and Municipal Address No.: 53008 Calton Line

**What is the size of property which is subject to this Application?**

Area: 9843.7 m Frontage: 159.8 m Depth: 61.6 (longest) m

**When were the subject lands acquired by the current owner?** August 21, 2020

4. **Existing Official Plan Designation:** Elgin County Official Plan: Agricultural Area  
Malahide Official Plan: Agriculture



How does the application conform to the Official Plan?

Please see attached Planning Justification Report.

**5. Existing Zoning By-law Classification:**

Small Lot Agricultural (A4)

What are the current uses of the subject lands?

Residential

If known, provide the length of time these uses have continued on this property.

At least 10 years.

If there are any existing buildings or structures on the subject lands provide the following information:

Type	Front Lot Line Setback	Side Lot Line Setbacks	Rear Lot Line Setback	Height	Dimensions
See Lot Addition Sketch attached to the Planning Justification Report					

If known, provide the dates in which each of these buildings were constructed.

**6. What is the Nature and Extent of the Rezoning?**

Rezoning required to change the existing A4 Zone of the proposed severed parcel (lot addition) with a proposed area of 1,882.3 square metres to match the RR zone of the 53052 Calton Line property so the latter is not subject to 2 different zones.

**7. Why is the rezoning being requested?**

See answer to #6 above.

8. Does the proposed Zoning By-law amendment implement a growth boundary adjustment of a settlement area? No

If so, attach separately justification or information for the request based on the current Official Plan policies or associated Official Plan amendment.

9. Does the proposed amendment remove land from an area of employment? No

If so, attach separately justification or information for the request based on the current Official Plan policies or associated Official Plan amendment.

10. Description of proposed development for which this amendment is requested (i.e. permitted uses, buildings or structures to be erected. (Be Specific)

As shown on the Lot Addition Sketch, a vacant land portion of the existing 53008 Calton Line property would be added to the abutting 53052 Calton Line property to enhance its western side yard.

For any proposed buildings or structures on the subject lands provide the following information:

Type	Front Lot Line Setback	Side Lot Line Setbacks	Rear Lot Line Setback	Height	Dimensions
See attached Lot Addition Sketch; no proposed new buildings or structures.					

11. Services existing or proposed for the subject lands: Please indicate with a ✓

Water Supply

Existing

Proposed

Municipal Piped Water Supply	(   )	(   )
Private Drilled Well	(   ✓   )	(   )
Private Dug Well	(   )	(   )
Communal Well	(   )	(   )
Lake or other Surface Water Body	(   )	(   )
Other	(   )	(   )

<b>Sewage Disposal</b>	<b>Existing</b>	<b>Proposed</b>
Municipal Sanitary Sewers	(   )	(   )
Individual Septic System	(   ✓   )	(   )
Communal System	(   )	(   )
Privy	(   )	(   )
Other	(   )	(   )

**Note: If the proposed development is on a private or communal system and generate more than 4500 litres of effluent per day, the applicant must include a servicing options report and a hydrogeological report.**

Are these reports attached? **Not Applicable**

If not, where can they be found?

### **Storm Drainage**

Provisions:

Proposed Outlet:

## **12. How will the property be accessed?**

Provincial Highway (   )      County Road (   ✓   )      Municipal Road – maintained all year (   )

Municipal Road – seasonally maintained (   )      Right-of-way (   )      Water (   )

If access is by water, do the parking and docking facilities exist, and what is the nearest public road?

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**13. Has the subject land ever been the subject of an application under the Planning Act for:**

Plan of Subdivision ( )      Consent ( ✓ )

Zoning By-law Amendment ( )      Ministers Zoning Order ( )

**If yes to any of the above, indicate the file number and status of the application.**

Concurrent consent application for the proposed lot addition is submitted.

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**14. How is the proposed amendment consistent with the Provincial Policy Statement 2005?**

Please see attached Planning Justification Report.

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**15. Are the subject lands within area designated under any Provincial Plan(s)? If the answer is yes, does the proposed amendment conform to the Provincial Plan(s)?**

No

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**17. The Owner is required to attach the following information with the application and it will form part of the application. Applications will not be accepted without the following.**

Lot Addition  
Sketch is  
Appendix B of  
the Planning  
Justification  
Report

- (a) A sketch based on an Ontario Land Surveyor description of the subject lands showing
- the boundaries and dimension of the subject lands;
  - the location, size and type of all existing and proposed buildings and structures, indicating their setbacks from all lot lines, the location of driveways, parking or loading spaces, landscaping areas, planting strips, and other uses;
-



- the approximate location of all natural and artificial features (buildings, railways, roads, watercourses, drainage ditches, banks of rivers or streams, wetlands, wooded areas, wells and septic tanks) that are on the subject lands, adjacent to the subject lands, or in the opinion of the applicant may affect the application;
  - the current uses of the land that is adjacent to the subject land;
  - the location, width, and name of any roads within or abutting the subject land, indicating where it is an unopened road allowance, a public traveled road, a private road, or a right-of-way;
  - the location of the parking and docking facilities to be used (if access will be by water only);
  - the location and nature of any easement affecting the subject land.
- (b) Written comments from the Elgin St. Thomas Health Unit, Long Point Region Conservation Authority and Ministry of Transportation (if applicable).
- (c) If a private sewage system is necessary, pre-consultation with the Chief Building Official is required about the approval process
- 18. If this application is signed by an agent or solicitor on behalf of an applicant(s), the owner's written authorization must accompany the application. If the applicant is a corporation acting without an agent or solicitor the application must be signed by an officer of the corporation and the seal if any must be affixed.**

See attached signed authorization form.

**19. Additional Information as required by Council**

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**20. If this application is to accommodate the consent of a surplus farm dwelling, please provide the following information:**

Date surplus farm dwelling was erected:

Not Applicable

Please provide the assessment roll number, location, and zoning of the farm parcel with which the subject lands is being consolidated.

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### Municipal Freedom of Information Declaration

In accordance with the provisions of the Planning Act, it is the policy of the Township Planning Department to provide public access to all development applications and supporting documentation.

Personal information contained on this form is collected pursuant to the Planning Act, R.S.O. 1990, O.Reg 200/96 as amended and will be used for the purpose of determining permission for re-zoning. The personal information collected will be maintained in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, as amended.

In submitting this development application and supporting documentation, I Henry Hiebert

the owner/authorized applicant, hereby acknowledge the above-noted policy and provide my consent, in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, that the information on this application and any supporting documentation provided by myself, my agents, consultants and solicitors, will be part of the public record and will also be available to the general public.

I hereby authorize the Township of Malahide to post a Change of Use sign and municipal staff to have access to the subject site for purposes of evaluation of the subject application.

Henry Hiebert  
Signature

01 08 2022  
Day Month Year

I, We, Henry Hiebert, of the Calton, ON  
of Malahide Township, in the county of Elgin County, do solemnly declare:

- (i) that I / We am / are the owner(s) of the lands described above
- (ii) that to the best of my / our knowledge and belief, all of the information and statements given in this application and in all exhibits transmitted are true.
- (iii) that I / we hereby appoint SBM Ltd. (Simona Rasanu) to act as an Agent on my/our behalf in all aspects of this application.

And I / We make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the "Canada Evidence Act".

DECLARED BEFORE ME at the:

City of London Owner / Agent

in the County/Region of Middlesex this 2nd

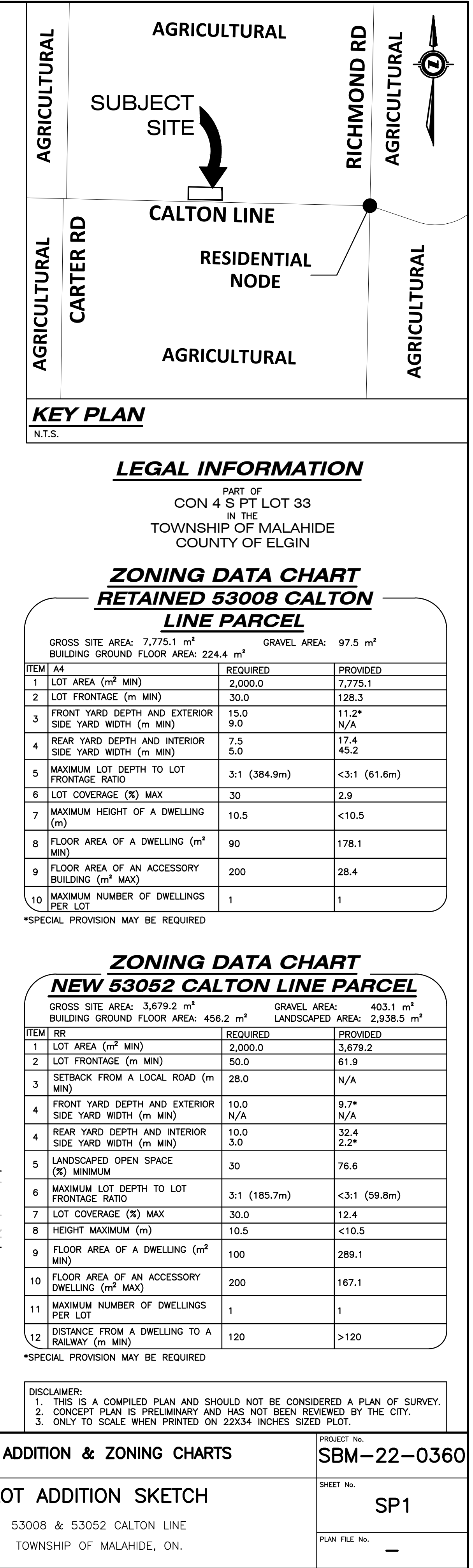
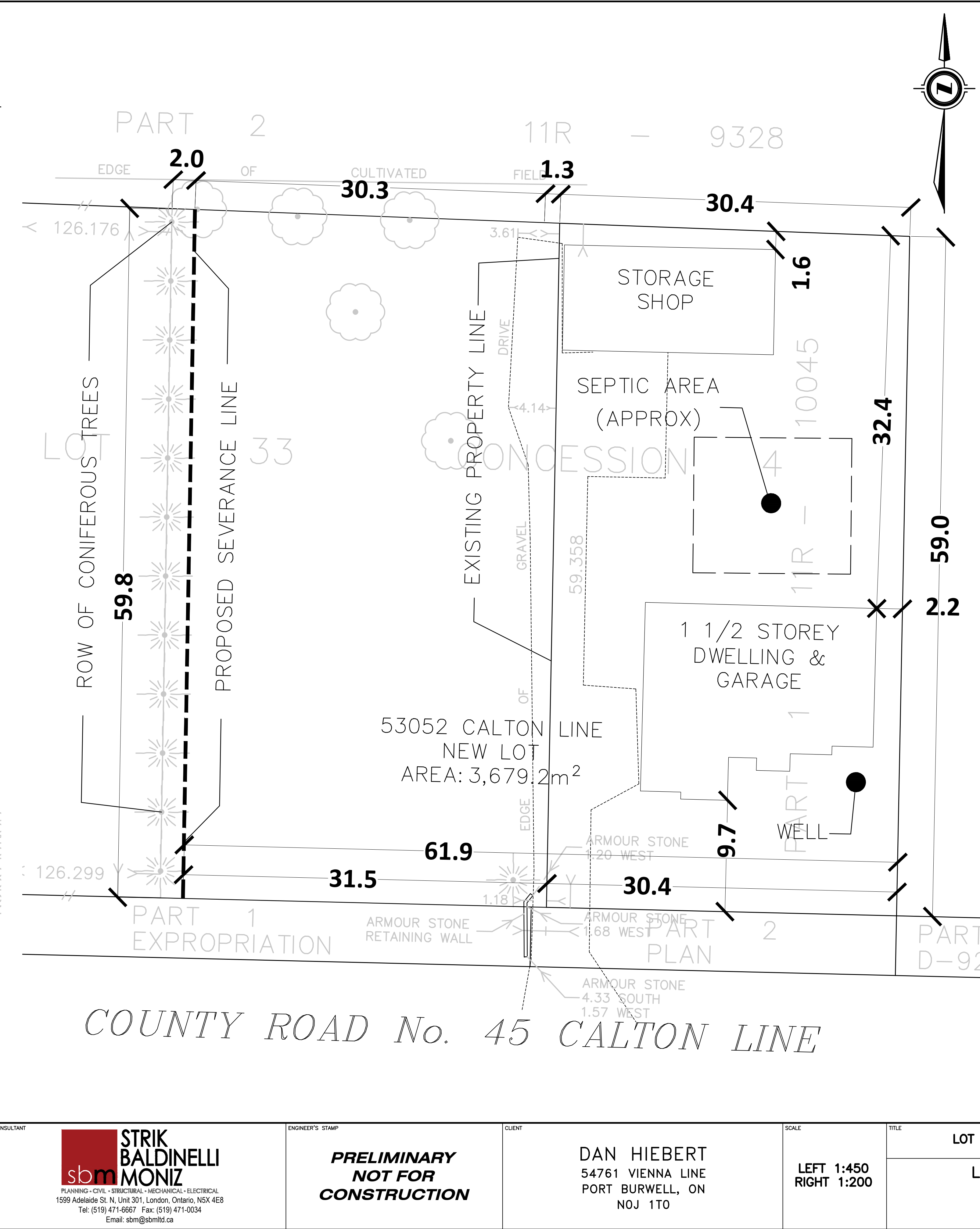
day of August 20 22.

Owner / Agent



A Commissioner, etc.

**AARON CORNELIS AUGUSTUS STRIK,**  
a Commissioner, etc., Province of Ontario,  
for Strik, Baldinelli, Moniz Ltd.  
and SBM Geomatics Ltd.  
Expires November 30, 2023.







# PLANNING JUSTIFICATION REPORT

## 53008 CALTON LINE, MALAHIDE

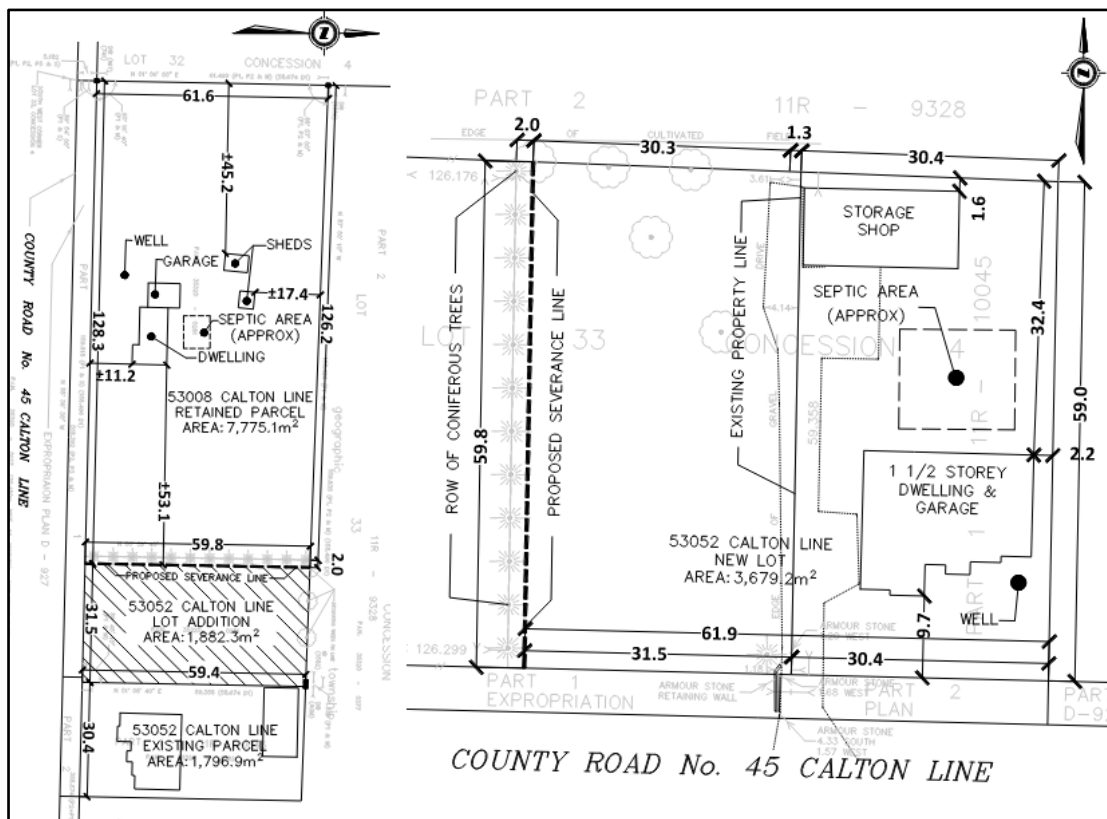
PROPOSED ZONING BY-LAW AMENDMENT AND CONSENT TO SEVER APPLICATIONS  
TO PERMIT A LOT ADDITION

Prepared for:  
Dan Hiebert  
54761 Vienna Line  
Port Burwell, ON NOJ 1T0

Prepared by:  
Strik, Baldinelli, Moniz Ltd.  
#301, 1599 Adelaide St. N.  
London, ON N6B 2H8

SBM-22-0360

August 2022



3 August 2022  
SBM-22-0360

Chloe Cernanec, Development Services Technician/Assistant Planner  
Township of Malahide  
87 John Street South  
Aylmer, ON N5H 2C3

**RE: Planning Justification Report – 53008 Calton Line, Malahide, Elgin County**

---

Strik, Baldinelli, Moniz Ltd. has been retained by Dan Hiebert (the “Applicant”) to prepare and submit Zoning By-law Amendment and consent to sever applications for the property municipally addressed as 53008 Calton Line located in southeast Malahide to permit a lot addition and consolidation with the abutting property municipally identified as 53052 Calton Line.

This report provides a review and analysis of the applicable relevant policies in support of the proposed Zoning By-law Amendment and consent applications, which are being submitted concurrently. The consent application will be submitted to Elgin County, as required. Should you have any questions or require additional information, please do not hesitate to contact the undersigned.

Respectfully submitted,

**Strik, Baldinelli, Moniz Ltd.**

Planning • Civil • Structural • Mechanical • Electrical



Simona Rasanu, RPP, MCIP  
Planner



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## **Appendix B – Lot Addition Sketch**

## **Appendix C – Pre-Application Consultation Meeting Summary (email received April 29/22)**

## **1 INTRODUCTION**

The purpose of the following land use Planning Justification Report is to evaluate proposed Zoning By-Law Amendment and consent applications within the context of existing land use policies and regulations, including the *Planning Act*, Provincial Policy Statement, County of Elgin Official Plan, the Malahide Official Plan, and the Malahide Zoning By-law.

This report demonstrates that the applications are in keeping with Provincial, County and municipal land use planning policies, are suitable for the subject lands, and would be compatible with neighbouring land uses. This report and associated appendices, plans and materials are intended to comprise a “Complete” Application and are reflective of the discussions and correspondence that have been held prior to this formal submission.

## **2 SITE DESCRIPTION**

The subject property municipally addressed as 53008 Calton Line (the “Subject Property”) is located on the north side of Calton Line, between Carter Road and Richmond Road in southeast Malahide, Elgin County (see **Figure 1** in Appendix A). It is a rectangular parcel with an existing lot area of 9,657.4 square metres and a lot frontage of 160 metres.

As shown on **Figure 2** and the Lot Addition Sketch in Appendix B (the “Lot Addition Sketch”), the lot is improved with a one-storey detached house with an attached garage and two permanent accessory structures (i.e., two sheds used for personal storage). Notwithstanding the agricultural land use designations and A4 (Small Lot Agricultural) Zone, the lands and structures are not being used for agricultural purposes – the existing residential use has continued for at least 10 years, according to the Applicant. A title search was not able to identify how the Subject Property was created.

## **3 SURROUNDING CONTEXT**

The surrounding land uses are primarily rural residential, particularly to the west and the east (along Calton Line), and agricultural croplands, especially to the north and south. There are two properties with industrial zoning on the south side of Calton Line: 53075 Calton Line is zoned M2; 53245 Calton Line zoned M3 and is used for the outdoor storage of scrap metal materials, dilapidated vehicles and waste materials. Further east are rural residential properties in proximity to the Calton Line/Richmond Road intersection (i.e., Calton hamlet).

## **4 DEVELOPMENT PROPOSAL**

A lot addition (i.e., lot boundary adjustment) severance is proposed whereby a vacant land portion of the Subject Property corresponding to a lot frontage of 31.5 metres and a lot area of 1,882.3 square metres would be severed and added to the abutting property to the east - 53052 Calton Line. The purpose of the proposed severance is to

enhance the western side yard of 53052 Calton Line, which is currently deficient in the minimum side yard setback on the west side of the existing building (see **Figure 3** in Appendix B).

As shown on the Lot Addition Sketch, the retained parcel corresponding to the new 53008 Calton Line property is proposed to have a lot area of 7,775.1 square metres, while the enhanced 53052 Calton Line property would have a lot area of 3,679.2 square metres. Both parcels would continue to have access from Calton Line. Both properties have private septic systems and water wells which are not impacted by the proposed lot addition – see the Lot Addition Sketch for approximate locations. The septic area and water well servicing the Subject Property would continue to be entirely within the boundaries of the retained parcel. Inspection reports for the septic systems and water wells for both properties, as well as bacteriological tests for the water wells, are included in the consent application submission package. The documents did not indicate any concerns with these systems. Both properties would continue to be used for residential purposes (the “Severance Proposal”).

## **5 PLANNING FRAMEWORK**

### **5.1 Existing Planning Framework**

The existing planning framework includes the *Planning Act, 1990*, the Provincial Policy Statement (2020), the County of Elgin Official Plan (2015), the Malahide Official Plan (2013), and the Malahide Zoning By-law (2021).

### **5.2 Required Planning Applications**

A consent application is required to sever a portion of the Subject Property to be consolidated with the 53052 Calton Line property. The proposed boundary adjustment requires a Zoning By-law Amendment application to rezone the lands to be severed from Agricultural (A4) Zone to the Rural Residential (RR) Zone (i.e., the same zone as 53052 Calton Line). Further details will be provided below in the zoning analysis section of this report.

### **5.3 *Planning Act***

The *Planning Act, 1990*, as amended, is the provincial legislation that outlines how land use planning can be practiced in Ontario – it sets out rules and regulations which describe requirements for planning processes, how land uses may be controlled and by whom. Section 51(24) of the *Planning Act* outlines the criteria that need to be considered when evaluating subdivision and consent applications, including the effect of the proposal on matters of provincial interest; the dimensions and shapes of the proposed lots; the suitability of the land for the purposes for which it is subdivided; and whether the plan conforms to the official plan and any adjacent plans of subdivision.

The Severance Proposal is a minor lot boundary adjustment to increase and enhance the side yard of the abutting property (i.e., 53052 Calton Line). No land use changes are proposed as both properties would continue to be used for residential purposes. The lot area of the retained parcel is almost four times the Malahide Zoning By-law required lot area so the Subject Property is not adversely impacted by the proposed reduction in lot size. The Severance Proposal conforms to 51(24) of the *Planning Act*.

#### 5.4 Provincial Policy Statement (2020)

Any land use planning decision shall be consistent with the Provincial Policy Statement (PPS). The PPS provides direction for municipalities to promote efficient development and land use patterns, including intensification, and a wide array of residential types (Policy 1.1.1). It also directs municipalities to focus new growth and development to settlement areas to best utilize infrastructure, minimize impacts of climate change, and efficiently use land and resources (Section 1.1.3). When development in rural settlement areas is proposed, consideration must be given to the rural characteristics, scale of development and the availability of appropriate services (Policy 1.1.4.3).

Although the Subject Property is designated “Agricultural Area” by the Elgin County Official Plan and “Agriculture” by the Malahide Official Plan, it has been used exclusively for residential purposes for at least 10 years, according to the Applicant.

Section 2.3.4 of the PPS deals with lot creation and lot adjustments in areas identified as “prime agricultural areas”. Notwithstanding the residential use of the Subject Property, it is surrounded by agricultural uses and abuts active farm properties to the north and west.

The Severance Proposal is defined as “technical” by the PPS as it involves a minor boundary adjustment and does not result in the creation of a new lot. Policy 2.3.4.2 states the following with respect to these types of severances: “Lot adjustments in *prime agricultural areas* may be permitted for *legal or technical reasons*” (original italics). The proposed severed parcel would add additional side yard and amenity space to the western side of the abutting property at 53052 Calton Line and the retained parcel would continue to be suitable for its residential use. In summary, the Severance Proposal is consistent with the PPS.

#### 5.5 Elgin County Official Plan

The Township of Malahide is one of seven municipalities within Elgin County. The County Official Plan (Schedule ‘A’ Land Use) designates the Subject Property as “Agricultural Area” (see **Figure 4** in Appendix A). The Subject Property does not appear to be subject to any natural heritage designations as per Appendix #1 Natural Heritage Features and Areas of the County Official Plan.

The Severance Proposal can be characterized as a “boundary adjustment” severance and Section E1.2.3.2 deals with this type of severance. It states the following:

*A consent may be permitted for the purpose of modifying lot boundaries, provided no new building lot is created. In reviewing an application for such a boundary adjustment, the approval authority shall be satisfied that the boundary adjustment will not affect the viability of the use of the properties affected as intended by this Plan. In addition, the approval authority shall be satisfied that the boundary adjustment will not affect the viability of the agricultural parcels affected.*

Response: The Severance Proposal proposes a severed parcel with an area of 1,882.3 square metres to be added to the abutting property at 53052 Calton Line to increase its side yard and amenity space. The area of the severed parcel represents 19% of the existing lot area of the Subject Property and would enhance the viability of the 53052 Calton Line property. Furthermore, as the retained parcel would still be 7,75.1 square metres, the Severance Proposal would have no negative impact on its viability as a residential use. The Severance Proposal would also not affect any of the nearby properties being used for agricultural purposes.

Regarding land severances in the Agricultural Area designation, Section E1.2.3.4 states that “[c]onsents may also be granted for legal or technical reasons, such as for easements, correction of deeds, quit claims and minor boundary adjustments that do not result in the creation of a new lot.”

Section E1.2.3.1 outlines general criteria for consent applications. Although this section is more relevant for consents that seek to create new lots, the criteria will be outlined and responses provided.

*a) fronts on and will be directly accessed by a public road that is maintained on a year-round basis;*

Response: The Severance Proposal would have no impact on the existing accesses to the affected properties from Calton Line, also known as County Road No. 45, and identified as a County Minor Arterial on Schedule ‘B’ Transportation of the Elgin Official Plan.

*b) does not have direct access to a Provincial Highway or County Road, unless the Province or the County permits a request for access;*

Response: Further to the above response, the Subject Property and the abutting property at 53052 Calton Line would have continued access to a County Road – this is an existing condition that would not be affected by the Severance Proposal. No new access routes are proposed.

*c) will not cause a traffic hazard;*

Response: The Severance Proposal is not proposing a new lot with a new driveway/access and would have no impact on traffic conditions.

*d) has adequate size and frontage for the proposed use in accordance with the local municipal Zoning By-law;*

Response: As shown on the Lot Addition Sketch, there are no lot area or lot frontage deficiencies for either of the affected properties. Furthermore, the lot area of the retained parcel is almost four times the minimum lot area and the lot frontage is over four times the minimum lot frontage for the A4 Zone.

*e) notwithstanding d) above, where a zoning by-law amendment or minor variance is required, approval of such amendment or variance shall be included as a condition of the approval of the consent;*



Response: A Zoning By-law Amendment application is required and will be submitted concurrently to ensure the severed parcel (i.e., the lot addition lands) has the same zone as the 53052 Calton Line property. There are no new zoning deficiencies created because of the Severance Proposal. The only deficiency identified on the Lot Addition Sketch with respect to the retained parcel is a front yard depth (i.e., 11.2 metres versus a required minimum of 15.0 metres). This is an existing condition for the house, which was constructed approximately 70 years ago, and would be characterized as legal non-conforming. The 53052 Calton Line property, enhanced with the proposed severed parcel, appears to have a minor deficient front yard depth of 9.7 metres vs the required 10.0 metres, as well as an interior side yard setback of 2.2 metres, whereas a minimum of 3.0 metres is required. These are also existing conditions and are not the result of the Severance Proposal.

- f) *can be serviced with an appropriate water supply and means of sewage disposal, provided there is confirmation of sufficient reserve sewage system capacity and reserve water system capacity within municipal sewage services and municipal water services;*

Response: The Lot Addition Sketch identifies the approximate locations of the existing private water well and septic area for both the Subject Property and the abutting 53052 Calton Line property. As the septic tank and water well inspection reports included in the consent submission package indicate, there are no concerns with the existing servicing and the Severance Proposal would have no impact on the existing servicing.

- g) *will not have a negative impact on the drainage patterns in the area;*

Response: The Severance Proposal would have no impact on the area drainage patterns.

- h) *will not restrict the development of the retained lands or other parcels of land, particularly as it relates to the provision of access, if they are designated for development by this Plan;*

Response: The Severance Proposal would conform to this criterion.

- i) *will not have a negative impact on the significant features and functions of any natural heritage feature; in this regard, lots should be restricted in size in order to conserve other lands in larger blocks for natural heritage purposes;*

Response: This criterion is not applicable as neither of the affected properties have identified natural heritage features.

- j) *will not have a negative impact on the quality and quantity of groundwater available for other uses in the area;*

Response: The Severance Proposal would have no negative impact on the quality and quantity of area groundwater.

- k) *will not have an adverse effect on natural hazard processes such as flooding and erosion;*

Response: The Severance Proposal would have no negative impacts on natural hazard processes.

*l) conform with the local Official Plan; and,*

Response: Section 5.6 of this report will undertake an analysis of relevant Malahide Official Plan policies and outline how the Severance Proposal conforms.

*m) will conform to Section 51 (24) of the Planning Act, as amended.*

Response: As noted in Section 5.3 of this report, the Severance Proposal conforms to Section 51 (24) of *the Planning Act*.

In summary, the Severance Proposal conforms to the Elgin County Official Plan.

## 5.6 Malahide Official Plan

The Subject Property is designated Agriculture in the Malahide Official Plan (Schedule 'A1' Land Use) (see **Figure 5** in Appendix A).

As previously mentioned, although the Subject Property is designated Agriculture, it has been used exclusively for residential purposes for at least 10 years. Section 2.1.6 outlines land division policies for lands designated Agriculture but they are not applicable to the Severance Proposal for the following reasons:

- a) No new lots are proposed by the Severance Proposal.
- b) The retained parcel is currently being used for residential purposes and this use is proposed to continue.
- c) The area of the retained parcel significantly exceeds the minimum lot size prescribed in the Malahide Zoning By-law for the A4 Zone.
- d) MDS 1 is not applicable, as per Section 8 of *The Minimum Distance Separation (MDS) Document*.

Section 2.1.7 also does not apply to the Severance Proposal as it relates to farm consolidation and the severance of surplus farm dwellings.

Policy 8.7.1.7 states the following with respect to consent proposals that do not result in the creation of new lots:

*Consents for lot adjustments, lot additions, minor boundary changes, easements and rights-of-way, or correction of title are permitted in any land use designation, provided the severed and retained parcels comply with the other applicable requirements of this Plan, and the Zoning By-law.*

The Severance Proposal is a minor boundary change/adjustment lot addition to enhance the side yard of the lands at 53052 Calton Line abutting the Subject Property. The proposed retained and severed parcels comply with the minimum lot area and lot frontage standards of the Malahide Zoning By-law and do not conflict with any policies of the Malahide Official Plan.

## 5.7 Zoning Analysis and Proposed Zoning By-law Amendment

The Malahide Zoning By-law has four agricultural zones: General Agriculture (A1) Zone, Special Agricultural (A2) Zone, Large Lot Agricultural (A3) Zone, and the Small Lot Agricultural (A4) Zone. The Subject Property is zoned A4

and the abutting property to be enlarged through the proposed lot addition is zoned RR (Rural Residential) (see **Figure 6** in Appendix A).

The A4 Zone applies to areas designated Agriculture in Malahide's Official Plan and parcels ranging in size from 4,000 square metres to 1 hectare (10,000 square metres). The Subject Property has an existing lot area of 9,657.4 square metres and would be reduced to a lot area of 7,775.1 square metres. The intent of the A4 Zone is the following:

*The Small Lot Agricultural (A4) Zone applies in areas designated 'Agriculture' in the Township's Official Plan to parcels ranging in size from 4,000 sq. m (1 acre) to 1 hectares (2.5 acres). The A4 zone also applies to lots created by consent to dispose a surplus farm dwelling where the size of the lot is greater than 1 hectare. As a means of identifying lots in the rural area which are primarily residential in nature, it essentially replaces the Agricultural Residential (AR) Zone of the Township's former Zoning By-law. Agricultural uses are permitted with the exception of fur farming and mushroom farming. The keeping of livestock is restricted to small-scale operations which are not governed by the provisions of the Nutrient Management Act.*

The RR Zone applies to residential lots designated Agriculture in the Official Plan where the lot size is generally less than 4,000 square metres. The existing lot area of 53052 Calton Line is 1,796.9 square metres and the new proposed lot area would be increased to 3,679.2 square metres. Note that the existing lot area for 53052 Calton Line is based on underlying survey information and does not match the lot area provided by Elgin County through its Elgin Mapping website.

The Malahide Zoning By-law states the following about the RR Zone:

*The Rural Residential (RR) Zone applies to residential lots designated 'Agriculture' in the Township's Official Plan where the size of such lots does not generally exceed 4,000 square metres (approximately 1 acre). Permitted uses are restricted to single unit dwellings and converted dwellings. Bed and breakfast establishments, home occupations and other accessory uses are also permitted. The RR zone is also applied, depending on lot size, to a new lot being created by consent for the purposes of disposing a surplus farm dwelling. Within the RR zone, the minimum lot area is 2000 sq m (0.5 acres). Unlike the Small Lot Agricultural (A4) zone, the keeping of livestock is not permitted.*

Since the Subject Property and the abutting 53052 Calton Line property are in two separate zones, a Zoning By-law Amendment application is proposed and was also confirmed by the municipal planning consultant through the pre-application consultation process. The proposed Zoning By-law Amendment application proposes to change the proposed lot addition (i.e., severed parcel) from the A4 Zone to the RR Zone so the consolidated 53052 Calton Line property would not be subject to two zones.

The Lot Addition Sketch shows zoning data charts for the retained parcel, as well as for the consolidated 53052 Calton Line property increased in area with the proposed lot addition. The zoning charts compare the zoning

regulations with the proposed/existing conditions. The deficiencies are identified with asterisks and a footnote is added stating special provisions may be required. Although the variances are not the result of the Severance Proposal, if they are not deemed to be legal non-conforming, they may be rectified through the Zoning By-law Amendment process.

## **6 CLOSING**

Based on a review of the relevant policies and regulatory framework for the Subject Property, the proposed consent and Zoning By-law Amendment applications are justified for the following reasons:

- The Severance Proposal represents a lot addition/minor boundary adjustment of the Subject Property to enhance the side yard setback and amenity space of the abutting 53052 Calton Line property to the east. The creation of a new lot is not proposed.
- The Severance Proposal is consistent with the PPS and conforms with the Elgin County Official Plan and the Malahide Official Plan.
- Although the Severance Proposal does not create new zoning deficiencies/variances, a Zoning By-law Amendment application has been submitted to ensure the 53052 Calton Line property, which is proposed to be enhanced through the addition of the severed parcel, is not subject to two different zones. Furthermore, if the variances identified on the Lot Addition Sketch are not deemed legal non-conforming, they may be legitimized through this Zoning By-law Amendment process.

For the reasons noted above and throughout this report, the proposed consent and Zoning By-law Amendment applications represent sound land use planning practice.

### **Strik, Baldinelli, Moniz Ltd.**

Planning • Civil • Structural • Mechanical • Electrical



Simona Rasanu, RPP, MCIP  
Planner

## Appendix A: Figures 1-6

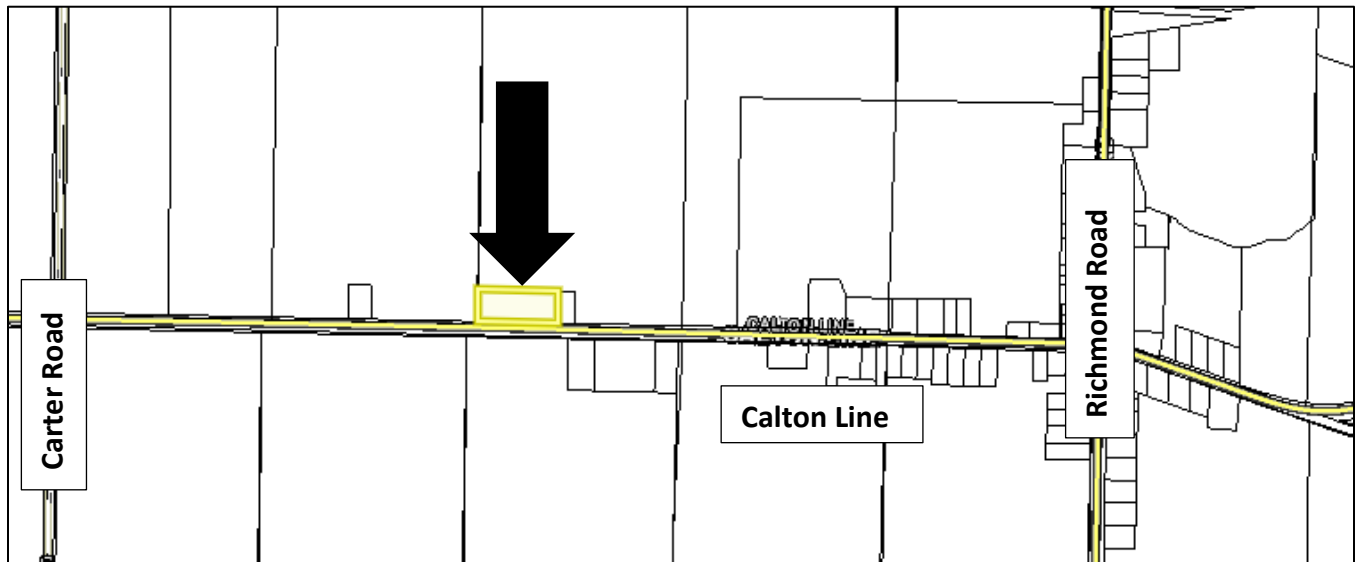


Figure 1. Subject Property Key Map (Source: Elgin Mapping)

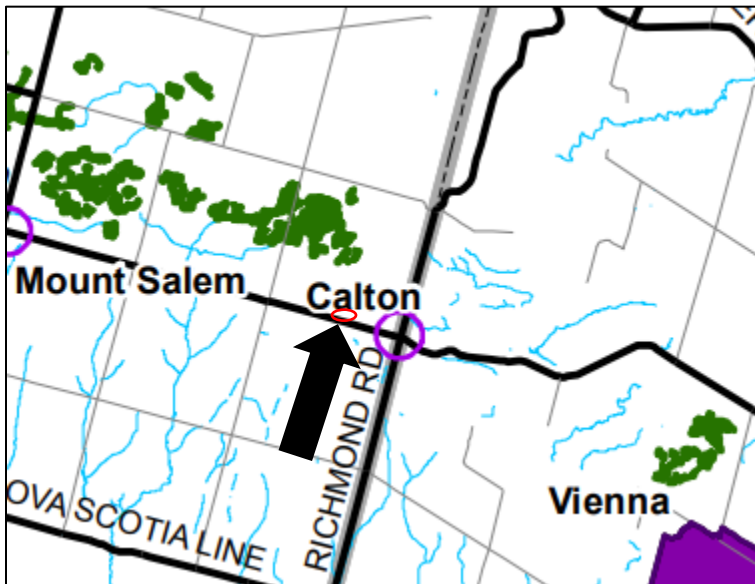


Figure 2. Aerial View of Subject Property (Source: Elgin Mapping)





**Figure 3.** Aerial view of Subject Property and abutting property addressed as 53052 Calton Line (Source: Elgin Mapping)



**Figure 4.** Elgin County Official Plan land use designation: *Agricultural Area* (Source: Schedule 'A' Land Use)

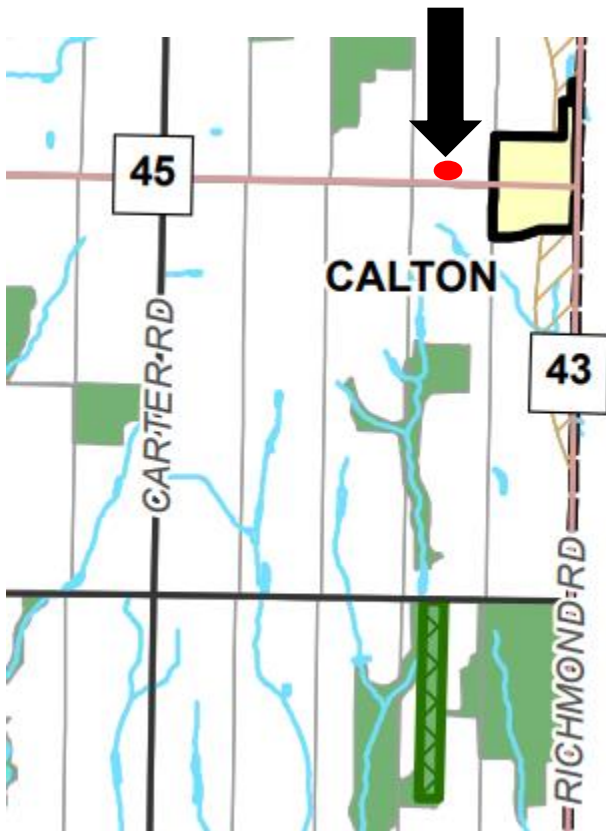


Figure 5. Malahide Official Plan land use designation - Agriculture (Source: Schedule 'A' Land Use)

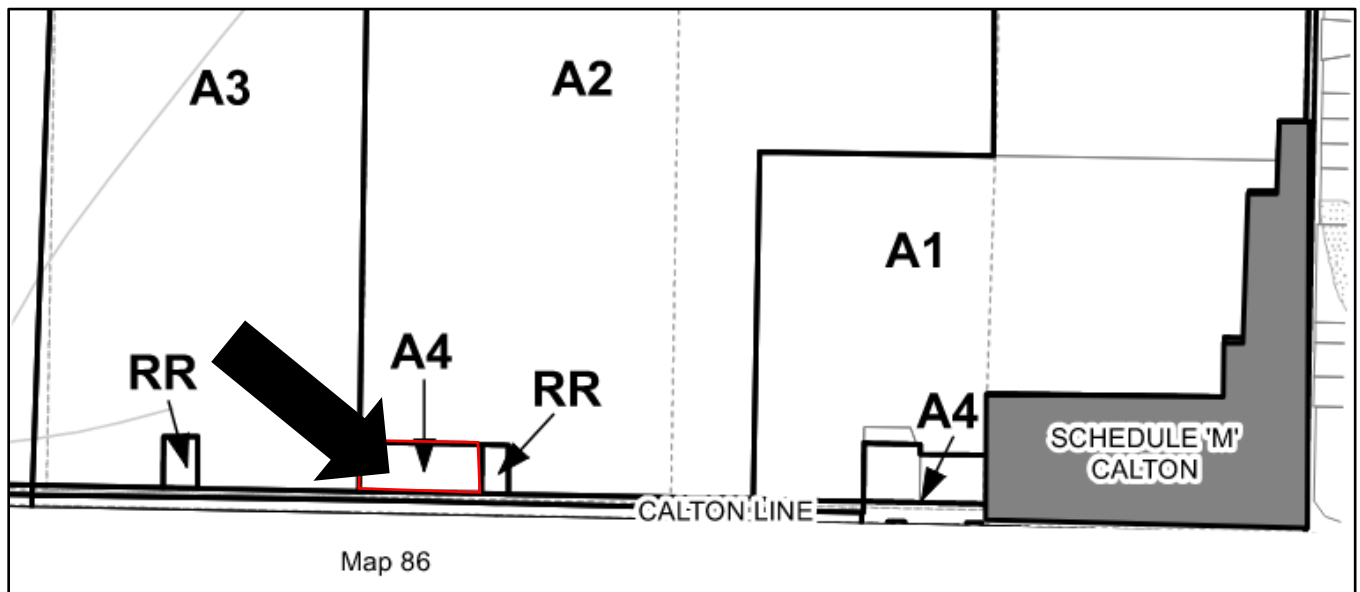


Figure 6. Existing zones for the Subject Property (A4) and the abutting property (RR) (Source: Map No. 77, Malahide Zoning By-law)

**THE CORPORATION OF THE  
TOWNSHIP OF MALAHIDE  
BY-LAW NO. 22-65**

Being a By-law to amend By-law No. 18-22

**Henry Hiebert/Simona Rasanu (c/o SBM Ltd.)  
53008 Calton Line**

**WHEREAS** the Council of The Corporation of the Township of Malahide deems it necessary to pass a By-law to amend By-law No. 18-22, as amended;

**AND WHEREAS** authority is granted under Section 34 of the Planning Act, as amended, to pass a By-law;

**AND WHEREAS** this By-law conforms with the Official Plan of the Township of Malahide, as amended;

**NOW THEREFORE** the Council of The Corporation of the Township of Malahide **HEREBY ENACTS AS FOLLOWS:**

1. **THAT** the area shown in bold on the attached map, Schedule “A”, and described as Part Lot 33, Concession 4, in the Township of Malahide, shall be removed from the “Small Lot Agricultural (A4) Zone” of By-law No. 18-22 and placed within the “Rural Residential (RR) Zone” of By-law No. 18-22 as set forth in this By-law. The zoning of this land shall be shown as “RR” on Key Map 77 of Schedule “A” to By-law No. 18-22, as amended.
2. **THAT** this By-law shall come into force:
  - a) Where no notice of objection has been filed with the Township’s Clerk within the time prescribed by the Planning Act and regulations pursuant thereto, upon the expiration of the prescribed time; or,
  - b) Where notice of objection has been filed with the Township’s Clerk within the time prescribed by the Planning Act and regulations pursuant thereto, upon the approval of the Ontario Land Tribunal.

**READ** a **FIRST** and **SECOND** time this 6th day of October, 2022.

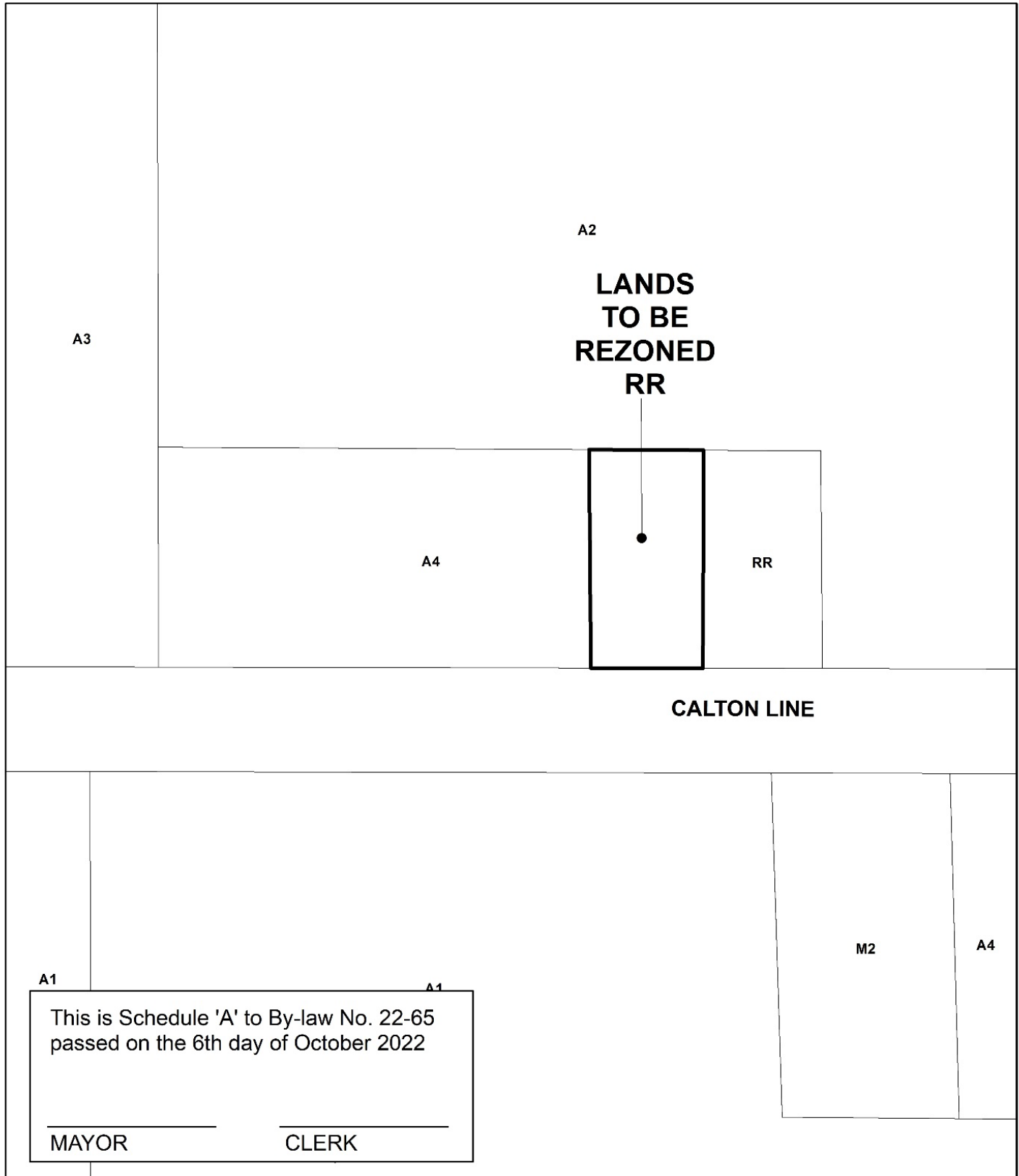
**READ** a **THIRD** time and **FINALLY PASSED** this 6th day of October, 2022.

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Mayor – D. Mennill

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Clerk – A. Adams

**SCHEDULE A**





## Report to Council

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**REPORT NO.:** F-22-13  
**DATE:** October 6, 2022  
**ATTACHMENT:** None  
**SUBJECT:** **EMERGENCY MANAGEMENT – ICE BREAKING SERVICES 2023**

---

### **Recommendation:**

**THAT Report No. F- 22-13 entitled “Emergency Management – Ice Breaking Services 2023” be received;**

**THAT Malahide Township, secures under contract a Drag Line on site from January 1, 2023 to March 31, 2023;**

**AND THAT the Long Arm Excavator also be contracted with a 2 hour call in of the time of notification from January 1, 2023 to March 31, 2023.**

### **Background:**

In previous years, the early mitigation and removal of ice in the harbor area was beneficial in alleviating potential flood conditions in Port Bruce during this period.

### **Comments/Analysis:**

Ice breaking is included within the Township’s Emergency Management operating budget under “Ice Management”. It is the opinion of Staff, in consultation with the CCCA, that the ice breaking process should include the use of a drag line in coordination with a long arm excavator whenever possible. The Staff recommend procuring the services of a drag line to be stationed on standby at the pier from January 1<sup>st</sup> through to March 31<sup>st</sup> . Staff also recommend procuring the services of a long arm excavator on a standby call-in basis with a maximum response time of two (2) hours from the time of notification.

This method of operating two machines has been used in previous years, and was deemed to be effective at assisting with ice breakup and flood preparedness. In these previous instances however, only the drag line was secured under contract. The activation of a long arm excavator to assist in ice removal was done only if a machine

was available at the time, with no contractual obligation of the excavator contractor to supply the equipment. It is Staff's recommendation that both types of equipment be formally secured through the procurement process going forward.

If the Township is to procure only one machine, it remains the opinion of Township Staff that a long arm excavator be the preferred option due to its versatility, and ability to undertake the required task at a comparatively reduced cost noting the historical on call use and requirement.

### **Financial Implications to Budget:**

For 2022, a Long Arm Excavator was secured and was available to be called in with 1-hour notice without any stand-by cost at an hourly rate of 190.00 per hour. Previous to the Long Arm Excavator in 2020 a Drag line was contracted at a cost of 4400.00 dollars a month plus a move in cost of 1500.00 dollars and an hourly rate of 195/hr.

The 2023 estimated cost for the contract is unknown at this time but would have standby costs associated with Drag Line.

As the ice breaking equipment contract is to be in place for January 1, 2023 through March 31, 2023, sufficient funding for the proposed project/program will be included in the Draft 2023 Budget.

### **Relationship to Cultivating Malahide:**

The *Cultivating Malahide* Integrated Community Sustainability Plan (ICSP) is based upon four pillars of sustainability: Our Land, Our Economy, Our Community, and Our Local Government.

One of the goals that support the "Our Community" Strategic Pillar relates to "Keep Our Community Safe".

Emergency management and preparedness by both the Township and the Public are contributing factors in keeping the community safe. Ice breaking services mitigates the potential for ice jams forming in the Catfish Creek and spring flooding in the Village of Port Bruce.

Submitted by:	Approved by:
Jeff Spoor Director of Emergency Services / Fire Chief	Adam Betteridge Chief Administrative Officer



## Report to Council

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**REPORT NO.:** FIN-22-23  
**DATE:** October 6, 2022  
**ATTACHMENT:** n/a  
**SUBJECT:** PIPELINE PROPERTY TAX

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### **Recommendation:**

**THAT Report No. FIN 22-23 entitled “Pipeline Property Tax” be received.**

### **Background:**

The Township, along with several other neighbouring municipalities, were challenged with assessment appeals dating back to 2017 for natural gas pipeline accounts. The appeals originated from a dispute between an Ontario-based oil and gas production and exploration company and the Municipal Property Assessment Corporation (“MPAC”) with respect to whether or not pipeline properties in question met the definition of pipe lines under the Assessment Act.

### **Comments:**

The oil and gas company asserted that their properties under appeal are natural gas production “gathering lines” and not subject to municipal taxes as “pipe lines” under the Assessment Act. For the purposes of natural gas service, section 25 (1) of the Assessment Act defines a “pipe line” as “a pipe line for the transportation or transmission of gas that is designated by the owner as a transmission pipe line”. Section 25 (3) of the Assessment Act provides that where there is a dispute as to whether a gas pipe line is a transmission pipe line, on the application of any interested party, the OEB shall decide the matter and its decision is final. In accordance with its authority pursuant to section 25 (3) of the Assessment Act, the OEB found that the evidence does not demonstrate that the Pipelines are “pipe lines” within the meaning of section 25 (1) of the Assessment Act. The OEB held: “The OEB finds that, although the Pipelines are used to transport gas, it is not satisfied that they were designated by the owner as required by the second condition of section 25 (1) of the Assessment Act.”

Since this time, there have been legislative changes to section 25 of the Assessment Act which, in effect, render the OEB Divisional Court proceedings moot. Through Bill 43, the Legislature has retroactively amended the Assessment Act to remove the “second

condition.” Accordingly, the properties under appeal are still “pipelines” under the Assessment Act and taxes are still owing with respect to those properties. The amendments made to the Assessment Act resulted in the oil and gas company withdrawing their appeal and paying their accounts in full.

**Financial Implications:**

The Township has been monitoring these appeals for a number of years and had appropriately recorded \$150,000 in liabilities in case the appeals were successful. As a result of the outcome of the appeals, the Township will be discharging this liability which will help offset a projected 2022 Deficit. A third quarter financial update will be provided at Council’s next meeting which provides further details in this regard.

Submitted by:	Approved for Council:
Adam Boylan Director of Finance/ Treasurer	Adam Betteridge Chief Administrative Officer



## Report to Council

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**REPORT NO.:** CLERK-22-11

**DATE:** October 6, 2022

**ATTACHMENT:** RFP No. 2022-P36 and County of Elgin County Council Report Dated September 9, 2022

**SUBJECT:** RFP Results – County of Elgin RFP No. 2022-P36 – Integrity Commissioner Services with Closed Meeting Investigator and Ombudsman Options

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### Recommendation:

**THAT Report CLERK-22-11 entitled “RFP Results – County of Elgin RFP No. 2022 P36 – Integrity Commissioner Services with Closed Meeting Investigator and Ombudsman Options” be received;**

**AND THAT the Council agrees to enter into a 2-year agreement with Aird & Berlis LLP for Integrity Commissioner, Closed Meeting Investigator and Ombudsman Services;**

**AND THAT the appropriate authorizing by-law be brought forward for Council’s consideration.**

### Background:

Bill 68, *Modernizing Ontario’s Conflict of Interest Act* was introduced on November 16, 2016 and advanced through the legislative process requiring municipalities implement requirements for codes of conduct, conflict of interest and integrity commissioner services by March 2019.

At its June 3, 2022 meeting, County Council received Integrity Commissioner/Closed Meeting Investigator/Ombudsman Services, that the current Integrity Commissioner and Closed Meeting Investigator, Mark McDonald (as representing Independent Resolutions Inc.) would be resigning from his responsibilities effective September 30, 2022.

At the meeting of Township Council on June 16, 2022, Council passed the following resolution:

"No. 22-260

Moved By: Max Moore

Seconded By: Chester Glinski

THAT Report No. CLERK-22-08 entitled "Appointment of Integrity Commissioner/Closed Meeting Investigator/Ombudsman Services" be received;

AND THAT the Township partner in a joint RFP with the County of Elgin and interested Local Municipal Partners to secure a new service provider to fulfill the transparency and accountability roles of Integrity Commissioner, Closed Meeting Investigator and Municipal Ombudsman."

Accordingly, the County of Elgin took the administrative lead on the RFP draft and issuance, with the process opening on August 9, 2022 and closed on August 26, 2022. The RFP was issued as a cooperative procurement venture that included the City of St. Thomas, Elgin County, and all lower-tier municipalities, except for the Town of Aylmer. Each municipality has the option to cross-appoint the same firm under a separate agreement. The RFP document is attached to this Report.

### **Comments/Analysis:**

During the advertisement period, three firms downloaded the RFP documents through the County's Bids & Tenders portal page. Based on the review and scoring, the top two submissions scored very closely and were invited to present to the review panel on September 8, 2022. The highest-scoring submission and firm selected by the review panel was that of Aird & Berlis LLP, which presented a team led by John Mascarini and represented the most complete RFP submission received. The recommendation report from the County is attached.

While no retainer is charged per annum, the hourly rate (\$489.75) is a significant increase over the previous service provider (\$150/hr). The \$489.75/hr. rate is based on the average rate based on projected percentage allocation of work among staff members based on the past experience and projections for the type of service being rendered. Hourly rates are fixed for a two-year period. Mileage and disbursements are extra and generally applicable if on-site services are required.

The quantity of Integrity Commissioner, Closed Meeting Investigator, and Ombudsman services required is contingent on the number of complaints/requests received in a given year. This figure can vary and, as such, it is difficult to predict a precise cost on this basis.

As the Township is required by legislation to have an Integrity Commissioner, and as Independent Resolutions Inc. previously provided Integrity Commissioner and Closed Meeting Investigator services, staff are recommending entering into an Agreement with Aird & Berlis LLP for Integrity Commissioner, Closed Meeting Investigator and



Ombudsman services. Council does also have the option to use the Provincial Ombudsman services and exclude that part of the Agreement.

**Financial Implications to Budget:**

Notwithstanding the increase in per hour rate, these legal services are included in the 2022 Operational Budget as previously approved by Council.

**Relationship to Cultivating Malahide:**

The Cultivating Malahide Integrated Community Sustainability Plan (ACSP) is based upon four pillars of sustainability: Our Land, Our Economy, Our Community, and Our Government.

One of the goals that support the “Our Local Government” Strategic Pillar relates to “Embody Financial Efficiency throughout Decision-Making”. Reviewing existing policies and by-laws provides flexibility to respond to changing legislation.

Submitted by:	Approved by:
Allison Adams, Manager of Legislative Services/Clerk	Adam Betteridge, Chief Administrative Officer

## REPORT TO COUNTY COUNCIL



**FROM:** Julie Gonyou, Chief Administrative Officer

Mike Hoogstra, Manager of Procurement  
& Risk

**DATE:** September 9, 2022

**SUBJECT:** Integrity Commissioner, Closed Meeting  
Investigator and Municipal Ombudsman –  
Contract Award

### RECOMMENDATIONS:

THAT the contract for Integrity Commissioner, Closed Meeting Investigator and Municipal Ombudsman be awarded to Aird & Berlis LLP for a two-year term; and,

THAT staff be authorized to extend the contract for an additional two-year term, subject to section 7.6 of the Procurement Policy; and,

THAT the Warden and Chief Administrative Officer be authorized to sign a contract for Integrity Commissioner, Closed Meeting Investigator and Municipal Ombudsman services on terms and conditions acceptable to the County Solicitor and Chief Administrative Officer.

### INTRODUCTION:

This report provides details on the Request for Proposal (RFP) for Integrity Commissioner, Closed Meeting Investigator and Municipal Ombudsman Services and seeks Council's approval to award the contract.

The RFP was issued as a cooperative purchasing project that included the City of St. Thomas and all constituent municipalities, save and except the Town of Aylmer. Each municipality has the option to cross-appoint the same firm under a separate agreement.

### DISCUSSION:

On June 14, 2022, Council directed that staff draft an RFP for Integrity Commissioner, Closed Meeting Investigator and Ombudsman services, to be issued jointly on behalf of Elgin County and any interested local municipal partners. The RFP document (2022-P36) is appended to this report as Attachment 1.

Information that was advertised and posted on the County's Bid Portal page <https://elgincounty.bidsandtenders.ca> including RFP dates, proposals submitted and a complete plan takers list is appended to this report as Attachment 2.

The Evaluation Committee (refer to Attachment 3), evaluated each proposal based on the following criteria:

- i) Understanding of the project;
- ii) Methodology and Approach to Project Tasks, Deliverables including training program;
- iii) Project Team experience and qualifications;
- iv) Project Firm experience within municipal government including practices, procedures, methods and mandates found within municipal government;
- v) Fees / Pricing / Total Overall Cost;
- vi) Reference Verification.

Three (3) proposals were received in response to the RFP, with all three (3) meeting the minimum mandatory requirements. The Evaluation Committee met on September 6, 2022 to review the three (3) proposals. Scoring for the two (2) highest proponents was close enough that the Evaluation Committee exercised the discretionary option pursuant to section 3.8 of the RFP to engage the two highest scoring proponents in a presentation. Both presentations to the Evaluation Committee occurred on September 8, 2022. The two (2) highest scoring firms provided a high-level overview of their proposal/services and responded to questions from the committee.

The firm selected by the Evaluation Committee pursuant to the RFP evaluation criteria is Aird & Berlis LLP. The proposal from Aird & Berlis LLP was the highest scoring qualified proposal and thus represented the best complete quality submission.

All Proponents that submitted a proposal to the County will be advised of the contract award and will be offered a debriefing of their individual proposal submission.

### **FINANCIAL IMPLICATIONS:**

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The hourly rate for Integrity Commissioner, Closed Meeting Investigator and Municipal Ombudsman services varies depending on the individual staff member that is performing the work on behalf of the service provider. The average rate proposed for the new contract term is \$489.75 per hour, with the average being formulated based on projected percentage allocation of work among staff members based on past experience and projections for the type of service being rendered. The hourly rates are fixed for a two-year term. Disbursements and travel costs are extra should on-site services be required. The quantity of Integrity Commissioner, Closed Meeting

Investigator and Municipal Ombudsman hours utilized is contingent on the number of complaints and/or requests for advice received so it is not possible for staff to predict the precise cost on an annual basis. With that qualification limiting the ability to forecast annual costs, staff are including a budget estimate of \$3,000.

#### **ALIGNMENT WITH STRATEGIC PRIORITIES:**

<b>Serving Elgin</b>	<b>Growing Elgin</b>	<b>Investing in Elgin</b>
<input checked="" type="checkbox"/> <b>Ensuring alignment of current programs and services with community need.</b>  <input type="checkbox"/> <b>Exploring different ways of addressing community need.</b>  <input type="checkbox"/> <b>Engaging with our community and other stakeholders.</b>	<input type="checkbox"/> <b>Planning for and facilitating commercial, industrial, residential, and agricultural growth.</b>  <input type="checkbox"/> <b>Fostering a healthy environment.</b>  <input checked="" type="checkbox"/> <b>Enhancing quality of place.</b>	<input checked="" type="checkbox"/> <b>Ensuring we have the necessary tools, resources, and infrastructure to deliver programs and services now and in the future.</b>  <input checked="" type="checkbox"/> <b>Delivering mandated programs and services efficiently and effectively.</b>

**Additional Comments:**

#### **LOCAL MUNICIPAL PARTNER IMPACT/COMMUNICATIONS:**

This report will be shared with all local municipalities, save and except the Town of Aylmer, and the City of St. Thomas. Each municipality has the option to cross-appoint the same firm under a separate agreement.

In the past, Elgin County covered the retainer costs associated with the Integrity Commissioner/Closed Meeting Investigator and Ombudsman services for all constituent municipalities with the exception of the Town of Aylmer (\$20,375). The recommended firm's pricing does not include a retainer fee and it is recommended that each constituent municipality fund all costs associated with these services.

#### **CONCLUSION:**

As detailed above, the Evaluation Committee completed an evaluation and selection process in accordance with Request for Proposal No. 2022-P36 and subsequently the proposal submission from Aird & Berlis LLP was deemed the successful qualified proponent and is recommended for award.

All of which is Respectfully Submitted

Julie Gonyou  
Chief Administrative Officer

Mike Hoogstra  
Manager of Procurement & Risk



## **Integrity Commissioner Services**

**(Optional: Closed Meeting Investigator and Municipal Ombudsman)**

### **REQUEST FOR PROPOSAL No. 2022-P36**

#### **ELECTRONIC SUBMISSIONS ONLY**

**Proposals shall be received by the Bidding System no later than:**

**August 26, 2022 @ 3:00 p.m. (local time)**



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## **DEFINITIONS AND INTERPRETATIONS**

The following definitions apply to the interpretation of the Request for Proposal Documents;

1. “Addenda or Addendum” means such further additions, deletions, modifications or other changes to any Request for Proposal Documents.
2. “Authorized Person” means;
  - i. For a Proponent who is an individual or sole proprietor that person.
  - ii. For a Proponent which is a partnership, any authorized partner of the Proponent.
  - iii. For a Proponent which is a corporation:
    - a) any officer or director of the corporation; and
    - b) any person whose name and signature has been entered on the document submitted with the Request for Proposal, as having been authorized to participate in the completion, correction, revision, execution, or withdrawal of the submission, whether that person is or is not an officer or director.
  - iv. For a Proponent that is a joint venture, the submission shall be signed by a person for and on behalf of each joint venture or, if they warrant that they have the authority vested in them to do so, one person so authorized may sign on behalf of all joint venture’s.
3. “Bidding System” means the County’s bid portal website operated by bids&tenders™ and posted as <https://elgincounty.bidsandtenders.ca/Module/Tenders/en>
4. “County” refers to the Corporation of the County of Elgin.
5. “City” refers to the Corporation of the City of St. Thomas.
6. “Constituent Municipalities” refers to lower-tier municipalities in Elgin County including the Town of Aylmer, Municipality of Bayham, Municipality of Central Elgin, Municipality of Dutton Dunwich, Township of Malahide, Township of Southwold, and the Municipality of West Elgin.
7. “Participating Municipalities” refers to the municipalities in Elgin County that will be participating in this Request for Proposal.
8. “Designated Official” refers to the Purchasing Coordinator for the County of Elgin.
9. “Proposal” means the Response in the form prescribed by this Request for Proposal Document and completed and submitted by a Proponent in response to and in compliance with the Request for Proposal.
10. “Proponent” means the legal entity submitting a proposal.
11. “Request for Proposal (RFP)” means the document issued by the County in response to which Proponents are invited to submit a proposal that will result in the satisfaction of the County’s objectives in a cost-effective manner.
12. “Successful Proponent” means the Proponent whose proposal has been approved by the County.

## **SECTION 1.0 - INFORMATION TO PROPONENTS**

### **1.1 Introduction and Background**

The County of Elgin and participating municipalities are inviting proposals from qualified Proponents to act as the Integrity Commissioner and, if available, provide the services as Closed Meeting Investigator and Municipal Ombudsman that will meet the requirements of the County and participating municipalities as outlined in this Request for Proposal.

The following participating municipalities, each with their own Code of Conduct, will consider cross-appointing the same successful Proponent(s) for Integrity Commissioner Services and optional Closed Meeting Investigator and Municipal Ombudsman services, if the terms are acceptable to each respective council and the successful Proponent. Such appointment will require the Successful Proponent to enter into a separate agreement with one (1) or more of the following municipalities:

- City of St. Thomas
- County of Elgin
- Town of Aylmer
- Municipality of Bayham
- Municipality of Central Elgin
- Municipality of Dutton Dunwich
- Township of Southwold
- Township of Malahide
- Municipality of West Elgin

Further information regarding the scope of work is included in Section 2.0.

### **1.2 Proposal Format and Delivery**

**ELECTRONIC PROPOSAL SUBMISSIONS ONLY**, shall be received by the Bidding System. Hardcopy submissions not permitted.

All Proponents shall have a Bidding System Vendor account with bids&tenders™ and be registered as a Plan Taker for this RFP opportunity, which will enable the Proponent to download the Request for Proposal document, download Addendums, receive email notifications pertaining to this RFP and to submit their proposal electronically through the Bidding System.

Proponents are cautioned that the timing of their Proposal Submission is based on when the proposal is RECEIVED by the Bidding System, not when a proposal is submitted, as proposal transmission can be delayed due to file transfer size, transmission speed, etc.

For the above reasons, it is recommended that sufficient time to complete your proposal submission and attachment(s) (if applicable) and to resolve any issues that may arise. The closing time and date shall be determined by the Bidding System's web clock.

Proponents should contact bids&tenders™ support listed below, at least twenty-four (24) hours prior to the closing time and date, if they encounter any problems. The Bidding System will send a confirmation email to the Proponent advising that their proposal was submitted successfully. If you do not receive a confirmation email, contact bids&tenders™ support at [support@bidsandtenders.ca](mailto:support@bidsandtenders.ca).

Late Proposals are not permitted by the Bidding System.

To ensure receipt of the latest information and updates via email regarding this RFP, or if a Proponent has obtained this RFP document from a third party, the onus is on the Proponent to create a Bidding System Vendor account and register as a Plan Taker for the RFP opportunity.

Proponents may edit or withdraw their proposal submission prior to the closing time and date. However, the Proponent is solely responsible to ensure the re-submitted proposal is received by the Bidding System no later than the stated closing time and date.

The onus unequivocally remains with the Proponent to ensure that the proposal is submitted electronically prior to the deadline and in accordance with the submission instructions.

The County, its elected officials, employees and agents shall not be responsible for any liabilities, costs, expenses, loss or damage incurred, sustained or suffered by any Proponent, prior or subsequent to, or by reason of the acceptance, or non-acceptance by the County of any proposal, or by reason of any delay in the acceptance of any proposal.

The County shall not be liable for any cost of preparation or presentation of proposals, and all proposals and accompanying documents submitted by the Proponent become the property of the County and will not be returned. There will be no payment to Proponents for work related to, and materials supplied in the preparation, presentation and evaluation of any proposal, nor for the Contract negotiations whether they are successful or unsuccessful.

### **1.3 Designated Official**

For the purpose of this contract Mike Hoogstra, Purchasing Coordinator for the County is the “Designated Official” and shall perform the following functions: releasing, recording, and receiving proposals, recording and checking of submissions; answering queries from perspective proponents, considering extensions of time, reviewing proposals received, ruling on those not completing meeting requirements and coordinating the evaluation of the responses.

### **1.4 Questions / Inquiries**

All inquiries regarding this RFP shall be directed through the Bidding System online by clicking on the “Submit a Question” button for this bid opportunity. Questions submitted through the bidding system are directed to the Designated Official. The deadline for submitting questions is noted in the RFP Schedule (Section 1.6).

If during the period prior to submission of *proposals*, the County determines, in its sole and unfettered discretion, that part of the RFP requires formal amendment or clarification, written addenda to this RFP will be distributed to all registered Proponents.

No clarification requests will be accepted by telephone, fax or in-person meeting. Responses to clarification requests will be provided to all interested parties. Inquiries must not be directed to other County employees or elected officials. Directing inquiries to other than the Designated Official may result in your submission being rejected.

### 1.5 **Addenda**

The County, may at its discretion, amend or supplement the RFP documents by addendum at any time prior to the closing date. Changes to the RFP documents shall be made by addendum only. Such changes made by addendum shall be supplementary to and form an integral part of the RFP documents and should be allowed for in arriving at the total cost. The County will make every effort to issue all addenda no later than three (3) days prior to the closing date.

Proponents shall acknowledge receipt of any addenda through the Bidding System by checking a box for each addendum and any applicable attachment.

It is the sole responsibility of the Proponent to have received all Addenda that are issued. Proponents should check online at <https://elgincounty.bidsandtenders.ca/Module/Tenders/en> prior to submitting their proposal and up until the RFP closing time and date in the event additional addenda are issued.

If a Proponent submits their proposal prior to the RFP closing time and date and an addendum has been issued, the Bidding System shall WITHDRAW the proposal submission and the bid status will change to an INCOMPLETE STATUS and Withdraw the proposal. The Proponent can view this status change in the “MY BIDS” section of the Bidding System.

The Proponent is solely responsible to:

- make any required adjustments to their proposal; and
- acknowledge the addenda; and
- Ensure the re-submitted proposal is RECEIVED by the Bidding System no later than the stated RFP closing time and date.

The Proponent shall not rely on any information or instructions from the County or a County Representative except the RFP Documents and any addenda issued pursuant to this section.

### 1.6 **RFP Schedule**

The RFP process will be governed according to the following schedule. Although every attempt will be made to meet all dates, the County reserves the right to modify or alter any or all dates at its sole discretion by notifying all Proponents through the bidding system.

Issue RFP:	August 9, 2022
Last Date for Questions:	August 19, 2022 @ 4:00 p.m.



RFP Close:	August 26, 2022 @ 3:00:59 p.m. (local time)
Interviews/Presentations:	September 2 or 5*
Award of Contract:	September 13, 2022*
Contract Start:	September 30, 2022
Contract End:	September 30, 2024

*\*Dates noted above are an approximation only and are subject to change.*

#### 1.7 **Proponent Communications**

Each Proponent is solely responsible to ensure that all contact information for the Proponent is accurate and updated at all times during the RFP process. Proponents may update or revise their contact information in their Bidding System Vendor account. All correspondence from the County to a Proponent will be issued through the Bidding System.

#### 1.8 **Proponent Investigations**

Each Proponent is solely responsible, at its own cost and expense, to carry out its own independent research, due diligence or to perform any other investigations, including seeking independent advice, considered necessary by the Proponent to satisfy itself as to all existing conditions affecting the Proposal for this RFP. The Proponents' obligations set out in this RFP apply irrespective of any background information provided by the County or information contained in the RFP Documents or in responses to questions.

The County does not represent or warrant the accuracy or completeness of any information set out in the RFP Documents or made available to Proponents. The Proponents shall make such independent assessments as they consider necessary to verify and confirm the accuracy and completeness of all such information as any use of or reliance by Proponents on any and all such information shall be at the Proponent's sole risk and without recourse against the County.

#### 1.9 **Notice of No Response**

If you are unable, or do not wish to provide a proposal, please complete a notice of no response form in the bidding system. It is important to the County to receive a reply from all Proponents.

#### 1.10 **No Guarantee of Volume of Work or Exclusivity of Contract**

The County makes no guarantee of the value or volume of work to be assigned to the successful Proponent. Any agreement executed with the successful Proponent will not be an exclusive contract. The County may contract with others for the same or similar services to those described in this RFP or may obtain the same or similar services internally.

## **SECTION 2.0 - TERMS OF REFERENCE**

### **2.1 Introduction**

The Corporation the County of Elgin and participating municipalities are seeking Proposals from Proponents that have the necessary qualifications and experience to provide the services as described in the Terms of Reference. The successful proponent will enter into separate agreements for Integrity Commissioner Services and optional Closed Meeting Investigator and Municipal Ombudsman services with each of the participating municipalities. Each municipality will pass their own by-law appointing the applicable Integrity Commissioner, Closed Meeting Investigator and Ombudsman services. Where this RFP refers to the County specifically it is understood that the same terms, conditions and requirements apply to each of the participating municipalities.

Proponents are asked to submit information on services they would provide in the role of Integrity Commissioner and, if available, Closed Meeting Investigator and Municipal Ombudsman, including the provision of the necessary administrative and operational supports required to provide said services. Please read this RFP document carefully and submit the information required in accordance with the instructions provided herein.

The following participating municipalities, each with their own Code of Conduct, will consider cross-appointing the same successful Proponent as its Integrity commissioner and optional Closed Meeting Investigator and Municipal Ombudsman, if the terms are acceptable to each respective council and the successful Proponent. Such appointment will require the Successful Proponent to enter into a separate agreement with one (1) or more of the following municipalities:

- City of St. Thomas
- Town of Aylmer
- Municipality of Bayham
- Municipality of Central Elgin
- Municipality of Dutton Dunwich
- Township of Southwold
- Township of Malahide
- Municipality of West Elgin

Proposals made in response to this RFP will be shared under a cooperative purchasing model with the constituent municipalities of Elgin County and the City of St. Thomas. For greater clarity, the Successful Proponent to this RFP would be required, in addition to the agreement with the County of Elgin to execute separate agreements directly with each municipal entity that wishes to engage the Successful Proponent's services and each participating municipality that wishes to engage the Successful Proponent's services and each participating municipality would be responsible under that separate agreement for payment of your hourly rate. The separate agreement will include substantially the same terms and conditions as the sample agreement attached hereto as Appendix "A". Each participating municipality reserves the right to select all services offered by the successful proponent or select only one or more of the services offered.

Proponents are encouraged to bring the best possible economic benefits and returns for the participating municipalities.

## 2.2 Term of Contract

The appointment will be for a two (2) year term with the option to renew for an additional two (2) years.

## 2.3 Scope of Work

The Integrity Commissioner is an independent and impartial position that reports directly to County Council and participating municipalities whose powers and duties are set out in the Municipal Act, 2001, as amended.

The role of the **Integrity Commissioner** will be to perform the duties and have the powers provided for in the Act, including but not limited to the following:

- a) **Advisory:** upon proper request, provide written and/or verbal advice to individual members of Council respecting the application of the Code of Conduct and/or any other procedures, rules, and policies relating to and reflecting upon their ethical behaviour; and furthermore and when appropriate, providing the full Council with specific and general opinions and advice respecting compliance by elected officials in respect of the provisions of governing statutes the Code of Conduct and any other applicable procedures, rules, and policies.
- b) **Compliance: Investigation/Determinations:** upon proper request from a member of Council or local board, municipal administration or one or more members of the public, to conduct an inquiry and make a determination as to any alleged contravention of the Code of Conduct or applicable procedures, rules, and policies by a member of Council or local board and thereafter, to report the details and results of such inquiry to municipal Council.
- c) **Educational:** provide the Chief Administrative Officer or as directed with an annual report of activities during the previous calendar year as Integrity Commissioner, including but not limited to advice given to Council or individual members of Council and a summary of inquiry results and determinations; furthermore, provide outreach programs to members of Council and local boards and relevant staff on legislation, protocols, and office procedures emphasizing the importance of compliance with a Code of Conduct for public confidence in Municipal Government.

Notwithstanding that set forth above, the parties acknowledge and agree that the function of the Integrity Commissioner is to provide advice and opinion to Council and members thereof, to provide independent compliant prevention, investigation, adjudication, and resolution to members of Council and the public, and education respecting adherence with the Code of Conduct for members of Council and other procedures, rules, and policies governing ethical behaviour.

The Integrity Commissioner is primarily responsible for ensuring the codes of behaviour and ethics governing elected public officials are objectively communicated and applied. The Integrity Commissioner is also responsible for investigating formal complaints that a member subject to the code of conduct is in breach of the code. This is a critical role in maintaining public confidence in local government.

The Integrity Commissioner would, upon request, provide advice and training on the Code of Conduct and other applicable policies and statutes regarding the conduct of Councillors (including the Municipal Conflict of Interest Act), conduct investigations to determine whether Councillors have violated the Code of Conduct and inform members of council and staff by publishing an annual report.

The role of the **Closed Meeting Investigator** will be to:

1. Conduct investigations from time to time as requested by the municipality upon receipt of a complaint in respect of meetings or part of meetings that are closed to the public to determine compliance with the Act or the municipal procedure by-law and to report on the results of such investigations;
2. Conduct such investigations having regard to being independent and impartial while respecting confidentiality;
3. Proceed without undue delay and with due diligence;
4. Conduct each investigation in private;
5. Hear and obtain information from such persons as the Closed Meeting Investigator thinks fit and to make such inquiries deemed necessary;
6. Provide an opportunity to the municipality of any such person that may be adversely affected by a proposed report of the Closed Meeting Investigator, to make representations respecting such report;
7. Preserve confidentiality and secrecy with respect to all matters that come to his/her knowledge in the course of permitting duties, save and except disclosure of such matters as in the Independent Contractor's opinion ought to be disclosed in order to establish ground for his/her conclusions or recommendations; and
8. After making an investigation, to render his/her opinion as to whether or not the meeting or part of the meeting that was subject to investigation appears to have been closed to the public contrary to the Act or Procedural By-Law and, in either case, the Investigator shall report his/her opinion and the reasons for it to the municipality and shall make recommendations as he/she sees fit.

The role of the **Municipal Ombudsman** will be to:

1. Investigate and report to Council in an independent manner on any decision or recommendation made or act done or omitted in the course of the administration of the municipality and its local boards with the exception of the Board of Health and Police Services Board.

Candidates must have extensive knowledge of Provincial Statutes, particularly those related to Ontario municipalities, and have the ability to interpret the provisions of applicable statutes and regulations, as well as policies and municipal by-laws that set out the framework of accountability, transparency and ethics that relate to conduct for members of municipal council.

The Integrity Commissioner, Closed Meeting Investigator and Municipal Ombudsman will work independently and is expected that they shall have no involvement in political campaigning, endorsements or any other related conflict of interest with respect to the municipalities.

All reports, presentations and materials produced by the Integrity Commissioner, Closed Meeting Investigator and Municipal Ombudsman for this project become the property of the municipality. Any public materials and the final report must be delivered in an accessible standard for the purposes of compliance with the Accessibility for Ontarians with Disabilities Act.

In performing such duties, the Independent Contractor shall have the powers set out in Subsection 223.12 (6) and Section 223.14 to 223.18 of the Act.

#### **2.4 Communications / Substitutions / Flexibility**

Proponents should be excellent communicators, possess both personal and professional integrity and discretion, and have familiarity with investigative procedures and the legal principles involved, particularly as they relate to evidence, legal interpretation and natural justice. Candidates must also have extensive knowledge and appreciation of municipal government and the ability to interpret the provisions of various statutes, regulations, policies and other enabling frameworks.

Since the Successful Proponent will be appointed by By-Law as the Integrity Commissioner and, if available, Closed Meeting Investigator and Municipal Ombudsman, there will be no substitutions of the successful candidate appointed.

Services will be required on a flexible and as needed basis, which may require work to be conducted outside regular office hours. This work will include but not be limited to attendance at meetings and responding to phone calls, and email enquiries.

#### **2.5 Background Information – County of Elgin and Municipal Partners**

The County of Elgin is situated in the heart of southwestern Ontario along the north shore of Lake Erie and immediately south of the City of London. Elgin County is an upper-tier County comprised of seven (7) local municipalities covering an area of 182,000 hectares with a population of approximately 50,000. Detailed information for the County and links to each Municipal Partner's websites are available at the following link: <https://www.elgincounty.ca/council/>

#### **2.6 Background Information – City of St. Thomas**

The City of St. Thomas is located in the heart of Southwestern Ontario in Elgin County with a population of approximately 41,000. Detailed information for the City is available at the following link: [https://www.stthomas.ca/city\\_hall/city\\_council](https://www.stthomas.ca/city_hall/city_council)

#### **2.7 Reporting Schedule**

The successful proponent shall provide the Chief Administrative Officer or as directed with an annual report of activities during the previous calendar year as Integrity Commissioner and, if applicable, Closed Meeting Investigator and Municipal Ombudsman including but not limited to advice given to Council or individual members of Council and a summary of inquiry results and determinations.

## 2.8 Codes of Conduct

<b>County of Elgin</b>	<a href="https://www.elgincounty.ca/wp-content/uploads/2018/01/141-Admin.-Revised-Code-of-Conduct-attachment.pdf">https://www.elgincounty.ca/wp-content/uploads/2018/01/141-Admin.-Revised-Code-of-Conduct-attachment.pdf</a>
<b>City of St. Thomas</b>	<a href="https://cdn5-hosted.civiclive.com/UserFiles/Servers/Server_12189721/File/City%20Hall/City%20Council/StThomas_CouncilBoardsAndCommittees_CodeOfConduct_13-06-2022.pdf">https://cdn5-hosted.civiclive.com/UserFiles/Servers/Server_12189721/File/City%20Hall/City%20Council/StThomas_CouncilBoardsAndCommittees_CodeOfConduct_13-06-2022.pdf</a>
<b>Town of Aylmer</b>	<a href="https://aylmer.ca/wp-content/uploads/2021/01/TownCodeConduct.pdf">https://aylmer.ca/wp-content/uploads/2021/01/TownCodeConduct.pdf</a>
<b>Municipality of Bayham</b>	<a href="https://cdn.shopify.com/s/files/1/1017/8401/files/By-law_No._2017-123_Council_Code_of_Conduct.pdf?1581131876418056147">https://cdn.shopify.com/s/files/1/1017/8401/files/By-law_No._2017-123_Council_Code_of_Conduct.pdf?1581131876418056147</a>
<b>Municipality of Central Elgin</b>	<a href="https://www.centralelgin.org/By-laws/By-law-No.-2247---Council-Code-of-Conduct.pdf">https://www.centralelgin.org/By-laws/By-law-No.-2247---Council-Code-of-Conduct.pdf</a>
<b>Municipality of Dutton Dunwich</b>	<a href="https://www.duttondunwich.on.ca/sites/default/files/Code%20of%20Conduct_0.pdf">https://www.duttondunwich.on.ca/sites/default/files/Code%20of%20Conduct_0.pdf</a>
<b>Township of Southwold</b>	<a href="https://www.southwold.ca/en/municipal-office/code-of-conduct.aspx">https://www.southwold.ca/en/municipal-office/code-of-conduct.aspx</a>
<b>Township of Malahide</b>	<a href="https://www.malahide.ca/en/municipal-office/resources/Council/19-26---Code-of-Conduct-Policy-for-Council.pdf">https://www.malahide.ca/en/municipal-office/resources/Council/19-26---Code-of-Conduct-Policy-for-Council.pdf</a>
<b>Municipality of West Elgin</b>	<a href="https://www.westelgin.net/en/municipal-office/resources/Documents/Code-of-Conduct.pdf">https://www.westelgin.net/en/municipal-office/resources/Documents/Code-of-Conduct.pdf</a>



## **SECTION 3.0 - PROPOSAL REQUIREMENTS**

### **3.1 Proposal Submissions**

**ELECTRONIC PROPOSAL SUBMISSIONS ONLY**, shall be received by the Bidding System.

Hardcopy submissions not permitted.

Failure to include the submission requirements may result in your proposal being disqualified.

### **3.2 Technical Proposal Submission Requirements**

**Proponents shall upload a PDF Proposal Submission, in English only, to the Bidding System.**

**The submission shall be no longer than fifteen (15) single sided pages (Arial 12 font or equivalent), excluding the Curricula Vitae.** The submission should include all of the information listed in this section. Additional information may be submitted as a separate appendix and will not count towards the page limit. Additional information will not be evaluated.

Each response to a request should clearly identify the section of this RFP to which it is responding (by number and heading). The Proponent should provide information of sufficient scope and depth to demonstrate the ability of the Proponent to deliver the services described in this RFP.

**Information submitted is subject to verification, and further pertinent information may be obtained from references.**

NOTE: No embedded hyperlinks to online literature will be reviewed or evaluated.

#### **3.2.1 Overview / Introduction**

Proponents shall provide a narrative demonstrating the firm's understanding of the full scope of services, reasons why the Proponent is interested in taking on this project and its familiarity with the County of Elgin, City of St. Thomas and the Constituent Municipalities.

#### **3.2.2 Firm Profile**

Firms shall have the personnel, organization culture and financial resources to ensure their ongoing ability to deliver and support the proposed project within the stated time period of the Contract. In order to evaluate the Firm as a viable and sound enterprise, include the following information;

- Year Established;
- No. of Years in Business;
- Legal Structure of Bidder (individual or firm): Corporation/Sole Proprietor / Partnership/Other;

- Names and Titles of Officers, Partners, Principal;
- Total number of employees;
- Identify all major clients;
- Include a statement, which describes the degree to which the scope of work of this RFP represents the core work of the individual or firm. Include evidence that the individual or firm has the infrastructure, suitability and resources to fulfill the County's requirements and expectations of this RFP. Include project portfolio and experience of previous work indicating the competence and track record of the individual or firm in the marketplace with regard to services required by the County. Include key aspects that distinguishes you (individual or firm) from others in the marketplace;
- Provide an overview of the individual or firm's history and experience as it relates to familiarity with the *Municipal Act, 2001*, *Public Inquiries Act, 2009*, S.O. 2009, c. 33, Sched. 6, MCI, and ethical standards and policies governing municipal councils;
- Provide an overview of the individual or firm's experience with respect to privacy and confidentiality issues that arise under the *Municipal Act, 2001*, *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, MCI, and other related legislation;
- Describe value added services (i.e. training materials, online tutorials, etc.) available to the County and participating municipalities at no additional cost (free issue);
- Include a written explanation of any possible conflicts of interest regarding other work or other client relationships, currently undertaken or anticipated with the County; and
- Include a written explanation of how the outcome of the Work will not provide special advantage to any private clients of the Proponent's team, including any sub-consultants.

### **3.2.3 Experience and Qualifications of the Firm**

Describe the Firms experience and knowledge with this RFP's scope of work related to the provision of Integrity Commissioner Services for Council; and, Closed Meeting Investigator services and Municipal Ombudsman (provisional), within the **last five (5) years** within a municipality (comparable in size to the County of Elgin). Proponents are requested to provide a **minimum of two (2)** relevant examples of awarded contracts for Integrity Commissioner Services for Council; and, Closed Meeting Investigator and Municipal Ombudsman services (provisional), within the public sector environment; within a municipality (comparable in size to the County Elgin).

NOTE: Proponents (individual or firm) may provide more than one example per each area. Proponents (individual or firm) shall include their familiarity with the public sector environment (and more specifically with municipal sector comparable in size to the County of Elgin), as it relates to Integrity Commissioner Services; and Closed Meeting Investigator and Municipal Ombudsman services (provisional), with demonstrated knowledge, expertise and relevant and direct experience in each of the following six (6) discipline areas:

1. Advanced mediation skills;

2. Excellent oral and written communication skills;
3. Conducting investigations;
4. Adjudicative experience;
5. Background in law or judiciary experience; and,
6. Knowledge of municipal government and municipal law, including conflict of interest legislation

#### 3.2.4 **Key Personnel**

Clearly identify the named Key Personnel which will be assigned to this account and their roles and responsibilities.

- **Proposed Integrity Commissioner(s):** Identify who will be assigned as the Integrity Commissioner(s) responsible for providing and managing the Work identified with this RFP. Identify their credentials, qualifications, achievements; roles/responsibilities in past similar projects, including years of direct and relevant experience with providing Integrity Commissioner Services for Council. Provide requested information in both a **resume format**; and, include a **Biography** (of each Named Key Personnel).

**NOTE:** It is the County's preference that the proposed Integrity Commissioner(s) have direct and relevant experience with a **minimum of two (2)** relevant examples of similar Work for Integrity Commissioner Services, **provided** within a municipality (comparable in size to the County of Elgin within the **last five (5) years**.

- **Proposed Closed Meeting Investigator(s):** Identify who will be assigned as the proposed Closed Meeting Investigator(s) responsible for providing and managing the Work identified with this RFP. Identify their credentials, qualifications, achievements; roles/responsibilities in past similar projects, including years of direct and relevant experience with providing Closed Meeting Investigator Services. Provide requested information in both a **resume format**; and, include a **Biography** (of each Named Key Personnel).

**NOTE:** It is the County's preference that the proposed Closed Meeting Investigator(s) have direct and relevant experience with a **minimum of two (2)** relevant examples of similar Work for Closed Meeting Investigator Services, within a municipality (comparable in size to the County of Elgin) in the **last five (5) years**.

- **Proposed Municipal Ombudsman:** Identify who will be assigned as the proposed Municipal Ombudsman responsible for providing and managing the Work identified with this RFP. Identify their credentials, qualifications, achievements; roles/responsibilities in past similar projects, including years of direct and relevant experience with providing Municipal Ombudsman Services. Provide requested

information in both a **resume format**; and, include a **Biography** (of each Named Key Personnel).

**NOTE:** It is the County's preference that the proposed Municipal Ombudsman have direct and relevant experience with a **minimum of two (2)** relevant examples of similar Work for Municipal Ombudsman Services, within a municipality (comparable in size to the County of Elgin) in the **last five (5) years**.

### **3.2.5 Program Delivery and Performance Measures**

Describe details for each service requirement below:

- Building upon the complaint investigation process required, describe timeline expectations for completing investigations;
- Describe the process and timeline for providing responses to requests for advice from Members of Council and how requests for advice on similar issues will be addressed;
- Describe the process and timeline for making determinations as to whether present and former Members of Council, board members, employees and officers are eligible for indemnification pursuant to the County's Indemnification By-law;
- Provide a statement describing the process and timeline for responding to requests from the public;
- Provide a statement of the approach for maintaining confidentiality and privacy throughout the investigation process as well as all other aspects of the responsibilities as Integrity Commissioner;
- Based on the services outlined in the Scope of Work, provide a detailed work plan, including timing, of how you intend to initiate the work as Integrity Commissioner as well as an outline of activities the Integrity Commissioner would expect to undertake on an annual basis;
- Identify any requirements or expectations the Firm would have of the County and participating municipalities in assisting with the duties of the Integrity Commissioner.

### **3.2.6 References**

Select a **minimum two (2)** of the submitted projects identified (in section 3.2.1.3) as references. The references cited must be willing to discuss all the services that were (or are being) provided, and their experience with the service and staff provided within a municipal context, with demonstrated knowledge, expertise and relevant and direct experience in each of the discipline areas noted in 3.2.1.3.

### 3.3 **On-Line Forms and Schedules**

Proposals must be submitted in accordance with the instructions set out in this RFP and by completing all on-line Forms and Schedules. Schedules should be completed without delineations, alterations, or erasures.

Proposals must contain responses to the elements listed on the Mandatory Requirements Schedule and Pricing Schedules (**see on-line bidding forms**). Failure to do so will result in the Proposal being disqualified. Proponents should provide responses to the mandatory requirements in the corresponding schedule or as otherwise directed.

### 3.4 **Financial Submission Requirements**

Proponents shall complete the price schedule on the online bidding system. Proponents must complete the Integrity Commissioner price form and, if service are available, the price form for Closed Meeting Investigator and Municipal Ombudsman.

Proponents should clearly indicate any extra costs anticipated for the supply of the services in the technical proposal submission or as a separate document. Upload the optional document under the Additional Document (optional) section of your proposal response.

Fees & expenses shall not include contingencies or HST.

### 3.5 **Evaluation Process**

Each proposal will be evaluated on its clarity and the demonstrated understanding of the Project requirements, the services proposed and timeframes, as well as the proponent's experience and the anticipated benefit to Elgin County and the participating municipalities. A short list of firms may be created for purposes of an interview or presentation, should this be required. Proponents may be contacted to explain or clarify their proposals; however, they will not be permitted to alter information as submitted.

An Evaluation Committee will be established from members of the County, participating municipalities and any others as deemed necessary.

Proposals will be evaluated on the basis of all information provided by the Proponent. Each proposal will be reviewed to determine if the proposal is responsive to the submission requirements outlined in the RFP. Failure to comply with these requirements may deem the proposal non-responsive.

Selection of a proposal will be based on (but not solely limited to) the following criteria and any other relevant information provided by the Proponent at the time of submission as well as any additional information provided during subsequent meetings with the Proponent.

In recognition of the importance of the procedure by which a Proponent may be selected, the following criterion outlines the primary considerations to be used in the evaluation and consequent awarding of this project (not in any order). The County reserves the right to evaluate and rank each submission using criterion noted. Actual scores will be confidential.

The County reserves the right to request confidential references for any of the proponent's projects listed, as well as any of the proponent's other projects, and factor the ratings from all references, whether completed or in progress.

### 3.6 **Evaluation Criteria**

Submissions will be evaluated by an evaluation committee based on the following categories. The disclosure of the allocated weightings for each category is provided to assist in preparing a proposal that best meets the requirements of the County.

**By responding to this RFP, Proponents agree to accept the decision of the evaluation committee as final.**



Proposals will be evaluated based on the following weighted evaluation factors:

Rated Criteria	Maximum Weight Points
<b>PHASE 1 - MANDATORY REQUIREMENTS</b>	<b>(Pass/Fail)</b>
The Proposed Integrity Commissioner(s) does not have a criminal record.	
The proposed Integrity Commissioner(s) does not have any current financial interest in matters related to the County.	
The proposed Integrity Commissioner(s) has not acted for or against any present Member of Council or the County of Elgin, participating municipalities or the City of St. Thomas in any capacity, save and except for the provision of Integrity Commissioner/Closed Meeting Investigation services to the County of Elgin, participating municipalities or the City of St. Thomas	
The proposed Integrity Commissioner(s) is not an eligible elector in the County of Elgin, participating municipalities or the City of St. Thomas, as defined in the <a href="#">Municipal Elections Act, 1996, S.O. 1996, c.32</a> .	
The proposed Integrity Commissioner(s) does not have any involvement in political campaigning/endorsements or related issues with respect to current Members of Council or candidates running for office in any municipal election in the County of Elgin, participating municipalities or the City of St. Thomas.	
The proposed Integrity Commissioner(s) is not related to any present Member of Council.	
<b>PHASE 2 – TECHNICAL PROPOSAL</b>	<b>80 POINTS</b>
Understanding of the Project	10
Methodology and Approach to Project Tasks, Deliverables including training program	20
Project Team Experience and Qualifications (including CV's)	25
Project Firm Experience within municipal government including practices, procedures, methods and mandates found within municipal government	25
<b>PHASE 3 – FINANCIAL SUBMISSION</b>	<b>20 POINTS</b>
Fees / Pricing / Total Overall Cost	20 points
<b>PHASE 4 - REFERENCES</b>	
Reference Verification	(Pass / Fail)
<b>TOTAL CUMULATIVE POINTS</b>	<b>100 POINTS</b>

### 3.7 Evaluation Criteria Rating / Scoring

For consistency, the following table describes the characteristics attributable to particular scores between 0-10.

0	Unacceptable	Did not submit information
1-2	Very Unsatisfactory	Very poor to unsatisfactory
3	Unsatisfactory	Minimally addresses some, but not all of the requirement of the criteria. Lacking in critical areas
4	Somewhat Unsatisfactory	Addresses most of the requirements of the criteria to the minimum acceptable level. Lacking in critical areas.
5	Somewhat Satisfactory	Addresses most, but not all, of the requirements of the criteria to the minimum acceptable level. May be lacking in some areas that are not critical.
6	Satisfactory	Adequately meets most of the requirements of the criteria. May be lacking in some areas that are not critical.
7	Good	Meets all requirements of the criteria.
8	Very Good	Somewhat exceeds the requirements of the criteria.
9	Excellent	Exceeds the requirements of the criteria in ways that are beneficial.
10	Outstanding	Proposal exceeds the requirements of the criteria in superlative ways / very desirable.

The lowest cost proposed shall be awarded the full amount of points available for the fee portion of the evaluation. All higher proposals shall be awarded points, rounded to the closest full point for the cost portion of the evaluation by the following:

$$\text{Lowest Cost} \div \text{Proposed Cost} \times \text{Maximum Points} = \text{Total Cost Points.}$$

It should be emphasized that pricing/cost is only one of the factors being considered in determining the successful Proponent.

In submitting a proposal, the Proponent acknowledges the County's right to accept other than the lowest priced proposal and expressly waives all rights for damages or redress as may exist in common law stemming from the County's decision to accept a proposal which is not the lowest price proposal, if it is deemed to be in the County's best interest to do so.

All qualified proposal submissions will be reviewed and evaluated. Additional information may be requested if necessary.

Only the proposal response and Curricula Vitae requested will be evaluated. Proponents must include all relevant information in the required page limit restriction identified in section 3.2.

### 3.8 **Presentation and Interview (Optional)**

The County may have the two (2) highest scoring Proponents attend an interview to present the evaluation team with additional insight into the Proponent's ability to meet the requirements as requested in the RFP. The County reserves the right to interview more or fewer than two (2) Proponents based on the scoring results.

The interviews would be conducted by the representatives of the Evaluation Committee either in-person at the County Administration Building, 450 Sunset Drive, St. Thomas, Ontario N5R 5V1 or via web conference. Senior staff members to be assigned to this project must be in attendance.

Presentations shall follow this general format:

- Introduction of Proponents Project Team (5 minutes)
- Proponent Presentation of the Proposal (25 minutes)
- Questions from Interview Committee (10 minutes)
- Questions from Proponents (5 minutes)

The Proponents will be notified of the final format and exact date and time for presentations in advance.

For the presentation portion of the evaluation (if required), the County will be using the rating criteria shown below and will evaluate each short-listed Proponent only.

Interview Criteria and Weighting (Second Stage if required):

<b>Criteria Category</b>	<b>Weighted Points</b>
Presentation	25
Response to Questions	10
Total Weighted Points	35

The score from the proposal evaluations and the presentations will be combined to determine an overall score.

## **SECTION 4.0 - GENERAL CONDITIONS**

### **4.1 Rights of the County**

The County is not liable for any costs incurred by the Proponent in the preparation of their response to the RFP or selection interviews, if required. Furthermore, the County shall not be responsible for any liabilities, costs, expenses, loss or damage incurred, sustained or suffered by any Proponent, prior or subsequent to, or by reason of the acceptance, or non-acceptance by the County of any proposal or by reason of any delay in the award of the contract.

The County reserves the right to accept any proposal, in whole or in part, that it feels most fully meets the selection criteria. Therefore, the lowest cost proposal, or any proposal may not necessarily be accepted. County staff shall evaluate all compliant proposals received by the closing time and make evaluations and recommendations for acceptance.

The County reserves the right to request specific requirements not adequately covered in their initial submission and clarify information contained in the Request for Proposal.

The County reserves the right to modify any and all requirements stated in the Request for Proposal at any time prior to the possible awarding of the contract.

The County reserves the right to cancel this Request for Proposal at any time, without penalty or cost to the County. This Request for Proposal should not be considered a commitment by the County to enter into any contract.

The County reserves the right to enter into negotiations with the selected Proponent. If these negotiations are not successfully concluded, the County reserves the right to begin negotiations with the next selected Proponent.

Proposals shall remain open and subject to acceptance for a period of ninety (90) days from closing date.

In the event of any disagreement between the County and the Proponent regarding the interpretation of the provisions of the Request for Proposal, the Director of Financial Services or an individual acting in that capacity, shall make the final determination as to interpretation.

No proposal shall be accepted from any person or Proponent who, has a claim or has instituted a legal proceeding against the County or against whom the County has a claim or has instituted a legal proceeding, without the prior approval of County Council. This applies whether the legal proceeding is related or unrelated to the subject matter of this RFP.

#### 4.2 **Conflict of Interest**

The Proponent declares that no person, firm or corporation with whom or which the Proponent has an interest, has any interest in this RFP or in the proposed contract for which this proposal is made.

The Proponent further declares that no member of the Council of the County or participating municipality or no officer or employee of the County or participating municipality will become interested directly or indirectly as a contracting party, partner, shareholder, surety, or otherwise in or in the performance of the Contract or in the supplies, work or business to which it relates, or in any portion of the profits thereof, or in any of the money to be derived there from.

Should the Proponent feel that a conflict of interest or potential conflict of interest exists; the Proponent must disclose this information to the County prior to the submission of a proposal. The County may, at its discretion, delay any evaluation or award until the matter is resolved to the County's satisfaction. The County may allow a conflict of interest or potential conflict of interest to exist if it is satisfied that there are adequate safeguards in place and if the County determines that it is in its best interests to do so.

The County reserves the right to disqualify a proposal where the County believes a conflict of interest or potential conflict of interest exists.

#### 4.3 **Modified Proposals**

In the event that a preferred proposal does not entirely meet the requirements of the County, the County reserves the right to enter into negotiations with the selected Proponent, to arrive at a mutually satisfactory arrangement and to make any modifications to the proposal as are in the best interests of the County.

#### 4.4 **Disqualification of Proponents**

More than one Proposal from an individual firm, partnership, corporation or association under the same or different names will not be considered. A Proponent shall not discuss or communicate, directly or indirectly with any other Proponent, any information whatsoever regarding the preparation of its own Proposal or the Proposal of the other Proponent. Proponents shall prepare and submit Proposals independently and without any connection, knowledge, comparison of information or arrangement, direct or indirect with any other Proponent. Collusion between Proponents will be sufficient for rejection of any Proposals so affected.

#### 4.5 **Confidentiality**

The proposal must not be restricted by any statement, covering letter or alteration by the Proponent in respect of confidential or proprietary information. The County will treat all proposals as confidential. The County will comply with the Municipal Freedom of Information and Protection of Privacy Act, and its retention by-law pursuant to the Municipal Act, in respect of all proposals. All Public Reports approved by the Council of the County will become public information.

#### 4.6 **Proposal Assignments**

The successful Proponent will not be permitted to assign or transfer any portion of the proposal as submitted or the subsequent agreement without prior written approval from the County and participating municipalities.

#### 4.7 **Purchasing Policy**

Submissions will be solicited, received, evaluated, accepted and processed in accordance with the County's Purchasing Policy as amended from time to time. In submitting a proposal in response to this RFP, the Proponent agrees and acknowledges that it has read and will be bound by the terms and conditions of the County's Purchasing Policy. The Purchasing Policy can be viewed on the County's website, [www.elgincounty.ca](http://www.elgincounty.ca)

#### 4.8 **Failure to Perform**

Failure to comply with all terms and conditions of this proposal, and failure to supply all documentation, as required herein, shall be just cause for cancellation of the award. The County shall then have the right to award this contract to any other Proponent or to re-issue this RFP.

#### 4.9 **Award and Agreement**

The Proponent that fully meets the requirements and scores the highest based on the evaluation criteria, will be recommended for award. Once the award is made and approved by the County or County Council, the report recommending such award including the total cost of the awarded project shall be a matter of public record, unless otherwise determined by Council.

A written agreement, prepared by the County shall be executed by the County and the successful Consultant. The complete proposal package submitted by the successful proponent, together with the entire Request for Proposal documents prepared by the County of Elgin, shall form part of the Agreement (see attached sample of agreement in Appendix A).

#### 4.10 **Insurance Requirements**

Any agreement, with each participating municipality resulting from this RFP, will contain the following insurance requirements:

- a) Comprehensive general liability insurance including bodily injury, property damage liability, personal injury liability, completed operations liability, blanket contractual liability, non-owned automobile and shall contain a severability of interest and cross liability clause to a limit of no less than five million (\$ 5,000,000) dollars in respect to any one occurrence. The above-mentioned policy shall be endorsed to include the County of Elgin as an Additional Insured.



- b) Professional Liability insurance covering all activities as described in the Proponent's proposal to a limit of no less than two million (\$2,000,000) per claim and in the aggregate. Such insurance shall provide coverage for errors and omissions made by the professional in the rendering of, or failure to render, professional services in connection with the Agreement. Upon completion of the work the policy shall remain in force for twelve (12) months. The Proponent must confirm that any property damage, personal injury or bodily injury resulting from an error or omission is considered an insurable loss whether coverage is under the Comprehensive General Liability Policy or the Professional Liability Policy (Errors & Omissions).
- c) Standard OAP 1 Automobile liability policy in the amount of two million (\$2,000,000) dollars.
- d) The aforementioned policies of insurance shall contain or shall be subject to the following terms and conditions:
  - be written with an insurer licensed to do business in Ontario;
  - be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to Elgin County;
  - contain an undertaking by the insurer to notify the County in writing not less than sixty (60) days before any material change in risk or cancellation of coverage.
  - any deductible amounts shall be borne by the Proponent.
  - Prior to the execution of the Agreement and within fifteen (15) business days of the placement, renewal, amendment, or extension of all or any part of the insurance, the Proponent shall promptly provide Elgin County with confirmation of coverage insurance and, if required, a certified true copy(s) of the policy(s) certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to the Agreement.

#### 4.11 **Indemnification**

The successful Proponent shall indemnify and hold harmless the County of Elgin, its officers, County Council, Employees and volunteers from and against any liabilities, claims, expenses, demands, loss, cost, damages, suits or proceedings by whomsoever made, directly or indirectly arising directly or indirectly by reason of a requirements of this agreement save and except for damage caused by the negligence of the County or their employees.

#### 4.12 **WSIB Requirements**

The successful Proponent shall furnish a WSIB Clearance Certificate **prior** to commencement of work and agrees to maintain their WSIB account in good standing throughout the contract period.

If the successful Proponent is a self-employed individual, partner or executive officer who does not pay WSIB premium and is recognized by WSIB as an "independent operator" a letter from WSIB acknowledging independent contractor status and confirming that WSIB coverage is not required must be provided to the County of Elgin prior to commencement of work.

#### 4.13 **Compliance with the Accessibility for Ontario with Disabilities Act 2005**

The Proponent shall ensure that all its employees and agents receive training regarding the requirements as outlined in the Integrated Accessibility Standards Regulation (Ontario Regulation 191/11) as well as the Ontario Human Rights Code. The Proponent is responsible to ensure that all of its employees, volunteers and others for which the Proponent is responsible are adequately trained.

In accordance with the *Accessibility for Ontarians with Disabilities Act, 2005 Integrated Accessibility Standards Regulation (Ontario Regulation 191/11)*, the County requires content created for the municipality that is to be posted on our website to be provided in a format which is compliant with WCAG 2.0 Level AA requirements. As required under Section 14 of the regulation, any content published on our website after January 1, 2012 needs to be compliant with the WCAG requirements by the timelines set out in the Regulation. It is the successful Proponent's responsibility to produce the required documents in an accessible format

#### 4.14 **Disqualification**

The County may, in its sole discretion, disqualify a proposal or cancel its decision to make an award under this RFP, at any time prior to the execution of the Agreement by the county, if,

- the Proponent fails to cooperate in any attempt by the County to verify any information provided by the Proponent in its proposal;
- the Proponent contravenes one proposal per Person or Entity;
- the Proponent fails to comply with the laws of Ontario or of Canada, as applicable;
- the Proposal contains false or misleading information;
- the Proposal, in the opinion of the County, reveals a material conflict of interest;
- the Proponent misrepresents any information contained in its proposal.

#### 4.15 **Record and Reputation**

Without limiting or restricting any other right or privilege of the County and regardless of whether or not a proposal or a Proponent otherwise satisfies the requirements of this RFP, the County may disqualify any proposal from any Proponent, where;

- In the opinion of the County Solicitor or the Purchasing Coordinator for the County, the commercial relationship between the Corporation of the County of Elgin and the Proponent has been impaired by the prior and/or current act(s) or omission(s) of each Proponent, including but not limited to:
  - a) Litigation with the County;
  - b) The failure of the Proponent to pay, in full, all outstanding accounts due to the County by the Proponent after the County has made demand for payment;
  - c) The refusal to follow reasonable directions of the County or to cure a default under a contract with the County as and when required by the County or its representatives;
  - d) The Proponent has previously refused to enter into an Agreement with the County after the Proponent's proposal was accepted by the County;

- e) The Proponent has previously refused to perform or to complete performance of contracted work with the County after the Proponent was awarded the contract;
  - f) Act(s) or omission(s) of the Proponent has resulted in a claim by the County under a bid bond, a performance bond, a warranty bond or any other security required to be submitted by the Proponent on an RFP within the previous five years.
- In the opinion of County Council or the Chief Administrative Officer, or their designate, there are reasonable grounds to believe that it would not be in the best interests of the County to enter into an Agreement with the Proponent, for reasons including but not limited to the conviction or finding of liability of or against the Proponent or its officers or directors and any associated entities under any taxation legislation in Canada, any criminal or civil law relating to fraud, theft, extortion, threatening, influence peddling and fraudulent misrepresentation, the Environmental Protection Act or corresponding legislation in other jurisdictions, any law regarding occupational health or safety or the Securities Act or related legislation.

#### 4.16 **Proponent's Costs**

The Proponent shall bear all costs and expenses incurred by the Proponent relating to any aspect of its participation in this RFP process, including all costs and expenses related to the Proponent's involvement in;

- the preparation, presentation and submission of its proposal;
- the Proponent's attendance at the Proponent's meeting;
- due diligence and information gathering processes;
- site visits and interviews;
- preparation of responses to questions or requests for clarification from the County;
- preparation of the Proponent's own questions during the clarification process; and,
- agreement discussions.

The County is not liable to pay such costs and expenses or to reimburse or compensate a Proponent under any circumstances, regardless of the conduct or outcome of the RFP Process, including the rejection of all proposals or the cancellation of the RFP, and including any negligence of the County in the conduct of the RFP process.

#### 4.17 **Legal Matters and Rights of the County**

This RFP is not an offer to enter into either a bidding contract (often referred to as "Contract A") or a contract to carry out the project (often referred to as "Contract B"). Neither this RFP nor the submission of a proposal by a Proponent shall create any contractual rights or obligations whatsoever on either the Proponent or the County.

The County may at its sole discretion change or discontinue this RFP process at any time whatsoever. The County may in its sole discretion enter into negotiations with any person, whether or not that person is a Proponent or a Short-Listed Proponent with respect to the work that is the subject of this RFP.

The County may at its sole discretion decline to evaluate any proposal that in the County's opinion is

incomplete, obscure or does not contain sufficient information to carry out a reasonable evaluation.

Without limiting the generality of the RFP, the County may at its sole discretion and at any time during the RFP process;

- reject any or all of the Proposals;
- accept any Proposal;
- if only one Proposal is received, elect to accept or reject it;
- elect not to proceed with the RFP;
- alter the timetable, the RFP process or any other aspect of this RFP; and
- cancel this RFP and subsequently advertise or call for new Proposals for the subject matter of this RFP.

In addition to and notwithstanding any other term of this RFP, the County shall not be liable for any damages resulting from any claim or cause of action, whether based upon an action or claim in contract, warranty, equity negligence, intended conduct or otherwise, including any action or claim arising from the acts or omissions, negligent or otherwise of the County and including any claim for direct, indirect or consequential damages, including but not limited to damages for loss of profit, loss of reputation, injury to property and bodily injury that results from the Proponents' participation in the RFP process, including but not limited to;

- the disclosure of a Proponent's confidential information;
- the costs of preparation of a Proponents Proposal, whether it is accepted, disqualified or rejected;
- any delays, or any costs associated with such delays, in the RFP process;
- any errors in any information supplied by the County to the Proponents;
- the cancellation of the RFP; and
- the award of the contract to a Proponent other than the Proponent recommended by the Proposal Review Committee.

#### **4.18 Human Rights, Harassment and Occupational Health and Safety**

The successful Proponent shall be required to comply with the County's policies regarding Human Rights, Harassment in the Workplace and Occupational Health and Safety as well as all Provincial and Federal laws, regulations and guidelines regarding Human Rights, Harassment in the Workplace and Occupational Health and Safety.

#### **4.19 Covid-19 Pandemic**

The successful Proponent shall comply with current COVID health and safety measures in place during the term of this contract.

All Proponents (hereinafter including all individual employees, agents or other representatives) must obtain and review the County's [COVID-19 Vaccination Verification Policy, 8.390](#). This policy requires any individual attending a County workplace to submit proof of a full course of a Health Canada approved COVID-19 vaccination OR to provide the negative result of a rapid antigen test, or PCR test if

available, taken within the immediate preceding forty-eight (48) hours, before being admitted to the County workplace to perform work. Each individual will have to show proof of identification that corresponds to their proof of vaccination. The County will not keep a copy of the proof of vaccination or any other personal health information of the individual. The successful Proponent must ensure that all individuals attending a County workplace to perform work or deliver services are aware of the policy and these requirements, to ensure that the individual arrives at the County workplace with the proper documentation for screening. Any individual arriving at a County workplace on behalf of the successful Proponent that does not have the required documentation will be refused entry to the County workplace and the County will not pay any fee or cost for call-out or for the undelivered work or service where the individual is turned away for failure to adhere to the County's COVID-19 Vaccination Verification Policy.

All Proponents (hereinafter including all individual employees, agents or other representatives) must obtain and review the County's Long-Term Care (LTC) Home [Policy and Procedure No. 2.10](#) regarding the Homes specific COVID-19 Vaccination Verification Policy. Any individual attending a County of Elgin LTC Home must be fully vaccinated before being admitted to any LTC Home to perform work.

#### 4.20 **Clarification**

The County may require the Proponent to clarify the contents of its proposal, including by the submission of supplementary documentation, or seek a Proponent's acknowledgement of the County's interpretation of the Proponent's proposal.

The County is not obliged to seek clarification of any aspect of a proposal.

#### 4.21 **Supplementary Information**

The County may, in its sole discretion, request any supplementary information whatsoever from a Proponent after the submission deadline including information that the Proponent could or should have submitted in its proposal prior to the submission deadline. The County is not obliged to request supplementary information from a Proponent.

#### 4.22 **Default / Non-Performance**

The County will reserve the right to determine "non-performance" or "poor quality" of service and further reserves the right to cancel any or all of this contract at any time should the Proponent's performance not meet the terms and conditions of the RFP upon 30 days written notification to the Proponent.

"Non-performance" shall mean the failure to meet the complete terms and conditions of this Contract including, but not limited to, the response time. In the event of such cancellation, the County retains the right to claim damages as a result of such default.

If the County terminates the Contract, it is entitled to:

- a) withhold any further payment to the Proponent until the completion of the work and the expiry of

- all obligations under the Contract; and
- b) recover from the Proponent any loss, damage and expense incurred by the County by reason of the default (which may be deducted from any monies due or becoming due to the Proponent).



**Addendum No. 1****Request for Proposal No. 2022-P36  
Integrity Commissioner Services**

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This addendum forms part of the RFP documents and is to be read, interpreted and coordinated with all other parts of the Request for Proposal.

The following questions have been received by the County; the County's response follows each question.

**Question 1:**

"With respect to the third requirement under the Phase 1 - Mandatory Requirements, it is extremely broad and onerous. Our firm is a full service law firm that does work across Ontario. In our experience, typical requirements provide that the proponent have not acted for or against any members of council and any not involved in any current proceedings against the municipality. To require that a proponent not ever have acted for or against of the nine municipalities is unduly onerous. Would the County consider revising this Mandatory Requirement?"

**Answer:**

The requirement is revised by Addendum 1.

**Question 2:**

"Will inability to comply with question 3.2.3 requesting a minimum of two awarded contracts disqualify a proponent's proposal, i.e., is 2 awarded contracts a mandatory requirement?"

**Answer:**

No, Proponents will however be scored based on their ability to meet this requirement.

**Question 3:**

"Section 3.2 of the RFP states that proposal submissions must be no longer than 15 pages. Given the number of requests in the RFP that proponents must respond to, we are finding it difficult to limit our submission to 15 pages. We respectfully request that the County either increase or eliminate the page limit to ensure that proponents can respond in full to each requested piece of information."

**Answer:**

Section 3.2, second paragraph, first sentence of the RFP has been amended by the following:

The submission shall be no longer than **twenty (20)** single sided pages (Arial 12 font or equivalent), excluding the Curricula Vitae.

**RFP Amendments**

1. Section 1.1, bullet list, the reference to the Town of Aylmer is hereby deleted and any reference throughout the RFP to participating municipalities is deemed not to include the Town of Aylmer.
2. Section 2.1, bullet list, the reference to the Town of Aylmer is hereby deleted.
3. At section 3.6, Evaluation Criteria in the chart identified as Phase 1 – Mandatory Requirements, page 19, the third requirement is deleted and replaced with the following:

*The proposed Integrity Commissioner(s) has not acted for or against any present Member of Council and is not currently involved in any legal proceedings against the County of Elgin, participating municipalities or the City of St. Thomas, save and except that the provision of Integrity Commissioner/Closed Meeting Investigation services to the County of Elgin, participating municipalities or the City of St. Thomas, inclusive of any guidance or advice given to members of council as part of those services, is excluded.*

4. Section 4.10, Insurance Requirements, is hereby deleted and replaced with the following:

4.10 **Insurance Requirements**

*Any agreement with each participating municipality resulting from this RFP will, at minimum, contain the following insurance requirements:*

- a) *Commercial general liability including errors and omissions OR professional liability, whichever is applicable, in an amount of coverage not less than two-million dollars (\$2,000,000.00);*
- b) *Non-owned auto-mobile coverage with a limit of at least one million dollars (\$1,000,000.00);*
- c) *Such other insurance clauses or coverages as the County deems necessary for the provision of the services;*

5. Section 4.11 is hereby deleted and replaced with:

4.11 **Indemnification**

*The County of Elgin shall indemnify and save harmless the Commissioner or any person acting under the instructions of that officer for costs reasonably incurred by either of them in connection*

*with the defence of a proceeding if the proceeding relates to an act done in good faith performance or intended performance of a duty or authority under this Agreement, Part V.1 of the Municipal Act, 2001 or a by-law passed under it or an alleged neglect or default in the performance in good faith of the duty or authority.*

*The Commissioner shall indemnify and save harmless the County of Elgin, inclusive of its councillors, officers, employees and agents, for all claims, demands, causes of action, costs (including legal costs as between a solicitor and client), interest, or damages of any nature whatsoever arising from a fraud, willful misconduct or bad faith performance of a duty or authority under this Agreement, Part V.1 of the Municipal Act, 2001 or a by-law passed under it.*

6. Table of Contents, the reference to a “APPENDIX A – SAMPLE AGREEMENT” is hereby deleted.
7. Section 2.1, fourth body paragraph, the following sentence is hereby deleted “The separate agreement will include substantially the same terms and conditions as the sample agreement attached hereto as Appendix “A”” as shown in the below strikethrough

*Proposals made in response to this RFP will be shared under a cooperative purchasing model with the constituent municipalities of Elgin County and the City of St. Thomas. For greater clarity, the Successful Proponent to this RFP would be required, in addition to the agreement with the County of Elgin to execute separate agreements directly with ~~each municipal entity that wishes to engage the Successful Proponent's services and~~ each participating municipality that wishes to engage the Successful Proponent's services and each participating municipality would be responsible under that separate agreement for payment of your hourly rate. ~~The separate agreement will include substantially the same terms and conditions as the sample agreement attached hereto as Appendix “A”.~~ Each participating municipality reserves the right to select all services offered by the successful proponent or select only one or more of the services offered.*

The entirety Section 2.1, fourth body paragraph now reads:

*Proposals made in response to this RFP will be shared under a cooperative purchasing model with the constituent municipalities of Elgin County and the City of St. Thomas. For greater clarity, the Successful Proponent to this RFP would be required, in addition to the agreement with the County of Elgin to execute separate agreements directly with each participating municipality that wishes to engage the Successful Proponent's services, and, each participating municipality would be responsible under that separate agreement for payment of your hourly*

*rate. Each participating municipality reserves the right to select all services offered by the successful proponent or select only one or more of the services offered.*

8. Section 4.9 “Award and Agreement” the words at the end of the section “(see attached sample of agreement in Appendix A)” is hereby deleted, such that the entirety of section 4.9 now reads:

*4.9 Award and Agreement*

*The Proponent that fully meets the requirements and scores the highest based on the evaluation criteria, will be recommended for award. Once the award is made and approved by the County or County Council, the report recommending such award including the total cost of the awarded project shall be a matter of public record, unless otherwise determined by Council.*

*A written agreement, prepared by the County shall be executed by the County and the successful Consultant. The complete proposal package submitted by the successful proponent, together with the entire Request for Proposal documents prepared by the County of Elgin, shall form part of the Agreement*

9. Appendix A – Sample Agreement is deleted.

**End of Addendum No. 1**

**Addendum Issued: August 18, 2022**

**Total Pages: Four (4)**

Regards,

Mike Hoogstra, CPPB | Manager of Procurement & Risk  
P: 519-631-1460, extension 129 | E: [mhoogstra@elgin.ca](mailto:mhoogstra@elgin.ca)



## Report to Council

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**REPORT NO.:** CAO-22-14  
**DATE:** October 6, 2022  
**ATTACHMENT:** Draft By-law  
**SUBJECT:** REQUEST TO PURCHASE TOWNSHIP PROPERTY - CENTURY LINE CLOSED ROAD ALLOWANCE

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### Recommendation:

**THAT Report No. CAO-22-14 entitled “Request to Purchase Township Property – Century Line Closed Road Allowance” be received;**

**AND THAT Council adopt by-law no. 22-76 authorizing the Mayor and the Clerk to execute all documents in connection with the closing and stopping up of a portion of the Century Line Closed Road Allowance, together with all documents necessary to effect the sale of same to M&W Abel.**

### Background:

An Application has been received in accordance with the Township’s Policy entitled “Road Closing Procedures”.

The picture on the following page shows the current state of the closed road allowance as seen looking westward from Newell Road.



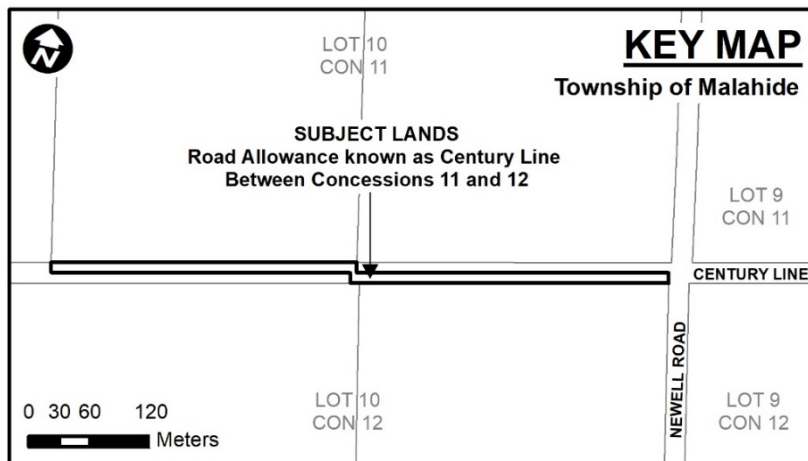
Township Public Works staff proceeded to meet with abutting landowners to discuss the received application and allow input/application for shared purchase of the subject property. No other comments arose from that consultation process.

A Notice of Public Meeting was posted in the Aylmer Express and mailed to adjacent properties.

### Comments/Analysis:

The Application is from M&W Abel, the owners of adjacent farm lands to the south of the road allowance (12354 Newell Road).

The description of the road allowance lands to be sold is as follows: Part of the Road Allowance known as Century Line Between Concessions 11 and 12, closed by By-law SD10874 as in Instrument E375515, Geographic Township of South Dorchester, now in the Township of Malahide (see key map below), and particularly described as being Part 1 on Plan 11R-10889. The area of the lands to be sold is 0.62 hectares (approximately 1.53 acres).





Township Staff have reviewed the proposal and is of the opinion that this unopened road allowance is of no particular importance to the Township or its operations. Further, there is no foreseeable future use or benefit that can be determined at this time by retaining the subject unopened road allowance. The Township has previously sold other portions of this road allowance between Newell and Imperial Roads.

No comments have been received in response to the Notice of Public Meeting.

The CAO has communicated with the Township's solicitor with regards to this Application. If Council deems it appropriate to sell this portion to M&W Abel as applied for, a by-law to effect the sale has been prepared by the Township's solicitor for Council's consideration.

### **Financial Implications to Budget:**

There will be no financial impacts to the Budget as a result of selling the remaining portions of this road allowance. The Application process includes a deposit (such has been received) that covers Township administration. All surveying costs, and legal expenses incurred by the Township are at the cost of the purchaser.

Submitted by:
Adam Betteridge, Chief Administrative Officer

**THE CORPORATION OF THE TOWNSHIP OF MALAHIDE****BY-LAW NO. 22-76**

Being a By-law to stop up, close and sell a piece of unopened road allowance known as Century Line between Concessions 11 and 12, closed by By-law SD10874 as in Instrument E375515, Geographic Township of South Dorchester, now in the Township of Malahide.

**WHEREAS** pursuant to Section 11 of the Municipal Act, 2001, S.O. c.25, the Township has the authority to pass by-laws respecting highways;

**AND WHEREAS** Section 34 of the Municipal Act, 2001, permits the Council of every Municipality to pass by-laws for stopping up and closing highways including all road allowances it has jurisdiction over;

**AND WHEREAS** Notice has been provided of the proposed stop up and close pursuant to By-law No.11-35, of The Corporation of the Township of Malahide;

**AND WHEREAS** the Council of The Corporation of the Township of Malahide deems it expedient to close and sell a piece of unopened road allowance known as Century Line between Concessions 11 and 12, closed by By-law SD10874 as in Instrument E375515, Geographic Township of South Dorchester, now in the Township of Malahide and particularly described as being Part 1 on Plan 11R-10889.

**NOW THEREFORE** the Council of The Corporation of the Township of Malahide **HEREBY ENACTS AS FOLLOWS:**

1. THAT the unopened road allowance identified as a portion of Century Line between Concessions 11 and 12, closed by By-law SD10874 as in Instrument E375515, Geographic Township of South Dorchester, now in the Township of Malahide and being Part 1 on Plan 11R-10889 be and the same is hereby stopped up and closed.
2. THAT the said unopened municipal road allowance as closed shall be closed for vehicular traffic and pedestrian traffic.
3. THAT the Mayor and the Clerk are hereby authorized and directed to execute all documents in connection with the closing and stopping up of the said lands, together with all documents necessary to effect the sale of same.
2. THAT any other by-laws or provisions in other by-laws found to be inconsistent with this new By-law are hereby deemed to be repealed.
3. THAT this By-law shall come into force and take effect on the final passing thereof.

**READ** a **FIRST** and **SECOND** time this \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2022.

**READ** a **THIRD** time and **FINALLY PASSED** this \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2022.

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Mayor, D. Mennill

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Clerk, A. Adams



## Report to Council

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**REPORT NO.:** CAO-22-13

**DATE:** October 6, 2022

**ATTACHMENT:** CCCA report dated September 27, 2022, entitled "Port Bruce Flooding, February 17th & 18th, 2022 – CCCA Attachment"

**SUBJECT:** **PORT BRUCE FLOODING, FEBRUARY 17<sup>TH</sup> & 18<sup>TH</sup>, 2022 – SUBSEQUENT UPDATE REPORT (PART 2)**

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### Recommendation:

**THAT Report No. CAO-22-11 entitled "Port Bruce Flooding, February 17th & 18th, 2022 – Subsequent Update Report (Part 2)" be received.**

### Background:

On Tuesday, April 5th, 2022, a public session was held whereby residents impacted by the flooding in the Village of Port Bruce on February 17th & 18th, 2022 could express concerns and comments. Officials from both the Township of Malahide and the Catfish Creek Conservation Authority ("CCCA") were in attendance.

On April 19<sup>th</sup>, 2022, a document containing detailed responses to concerns and questions raised from the April 5<sup>th</sup> public session was issued to those who attended.

At its July 7<sup>th</sup>, 2022 Regular Meeting, Council passed the following:

"No. 22-300  
 Moved By: Dominique Giguère  
 Seconded By: Scott Lewis

THAT Council direct staff to prepare a follow up report on the Port Bruce flood to address matters arising from the Q&A document provided to the community in April 2022.

Carried"

The above resolution was directed in order to provide clarification on a number of matters.

Subsequent to the above motion, the Port Bruce Ratepayers Association ("PBRA") submitted a letter (attached) which was received by Township Council at its July 21st, 2022 Regular Meeting.

At its September 15th, 2022 Regular Meeting, Council passed the following:

"No. 22-375

Moved By: Scott Lewis

Seconded By: Rick Cerna

THAT Report No. CAO-22-12 entitled "Port Bruce Flooding, February 17th & 18th, 2022 – Subsequent Update Report" be received.

Carried"

A copy of Report No. CAO-22-12 was sent via email to the PBRA Chair and Secretary via email.

### **Comments:**

Township staff have worked with the CCCA in order to provide responses to outstanding questions or concerns pertaining to the flood event.

The below headings are included and in the same order in the attached report from the CCCA dated September 27, 2022 and entitled "Port Bruce Flooding, February 17th & 18th, 2022 – CCCA Attachment". In that report the following additional headings are provided for further information: Dredging Synopsys; Programs and Services; Mandatory Programs and Services; and, Flood Mitigation Measures.

### Further Clarification on the Dynamics of Flood Event

There have been some who disagree, at least to some extent, with the explanations given in the April 19<sup>th</sup> response document on how and/or what factors lead to the flood event.

The CCCA Staff have provided further clarification in the attached document.

It is noted that the CCCA formally supports and prefers the use of a dragline (as opposed to a long arm excavator) to mitigate an ice jam at the harbour mouth. Township Staff is not opposed to this opinion on the basis that the long arm excavator also provides a number of benefits, including mobility and control precision: both options work to achieve the same outcome, but differently.

The Township and CCCA has in previous years utilized both machines at once to break ice. The dragline is not easily moveable and needs to be installed in advance, whereas the long arm excavator can be brought in and mobilized in shorter order.

Staff have also consulted with Frank Laemers of Laemers Excavating (hereinafter referred to as “Laemers”), the contractor who operated the long arm excavator for ice breaking purposes.

Ice breaking is included within the Township’s Emergency Management operating budget under “Ice Management”. It is the opinion of Staff, in consultation with the CCCA and Laemers, that an ice breaking process where the drag line is stationed at the pier from January 1<sup>st</sup> through to March 31<sup>st</sup> with a long arm excavator being mobilized to the Village when needed is appropriate, however only on the basis that both machines are secured via a contract for ice breaking when needed.

This was the method used in previous years, however only one operator/machine was secured, such being the drag line. The use of a long arm excavator was called upon in most years, however those companies (such as Laemers) weren’t contractually obligated to attend; if there were no companies available, it would put the Village in a precarious position.

If the Township is to procure only one machine, it remains the opinion of Township Staff that a long arm excavator be the preferred option due to its versatility, and ability to undertake the required task at a comparatively reduced cost noting the historical on call use and requirement.

A separate Township report to Council prepared by the Director of Emergency Services / Fire Chief seeks direction in this regard for the 2023 season.

#### Information on the Design & Construction of the New East Break Wall

With regard to the new break wall (referred to in the April 19<sup>th</sup> response document as “the East Breakwater”), questions have followed pointing to its design and whether it may have contributed to the extent of flooding that occurred.

Township Staff have attempted a number of times to contact and consult with Riggs Engineering Ltd. (hereinafter referred to as “Riggs”), a heavy civil engineering firm specializing in marine, coastal and water resources engineering, and the firm who designed and constructed the east break wall. To date, Riggs has not answered any requests.

Laemers has been involved with annual flood mitigation efforts in Port Bruce for the last 20 years (approximately). Laemers has advised that, in his opinion, the design and construction of the new pier and break wall did not contribute to, but rather helped with ice and water moving out of the harbour and into the lake.

Laemers has witnessed an improvement of water velocity through the channel, but in his opinion, and in his observations while performing this year’s ice breaking, it was the pack ice formulation beyond the pier that blocked creek ice and waters from moving into the lake and causing flooding within the village as a result.

Township Staff, in consultation with CCCA staff, also agree that the new pier and break wall worked as designed.



The Need for Updated Flood Studies

Township Staff acknowledge that there have been a number of studies produced over the last decades. Efforts such as ice breaking are made to mitigation flooding in accordance with those studies.

Please see CCCA comments on attached.

Process Changes

It has been raised that Township flood event processes should be improved or changed. Township Staff is of the opinion that current processes are appropriately structured and aligned with available resources, financially and otherwise.

That said, suggestions and recommendations, including collaboration with the residents and the Port Bruce Ratepayers Association, which recently reaffirmed its core and primary purpose of flood-risk reduction, are always welcome.

The CCCA has provided more information in regards to process changes and responses in its report, attached.

**Financial Implications to Budget:**

There are no financial implications to the Township's budget as a result of the recommendations of this report.

Submitted by:
Adam Betteridge, Chief Administrative Officer



## CATFISH CREEK CONSERVATION AUTHORITY

8079 Springwater Road, RR# 5, Aylmer, Ontario N5H 2R4

PHONE: (519) 773-9037 • FAX: 519-765-1489

e-mail: admin@catfishcreek.ca • www.catfishcreek.ca

**DATE:** September 27, 2022

**ATTACHMENT:**

**SUBJECT:** PORT BRUCE FLOODING, FEBRUARY 17<sup>TH</sup> & 18<sup>TH</sup>, 2022 –  
CCCA ATTACHMENT

### Further Clarification on the Dynamics of Flood Event

The Catfish Creek watershed is approximately 400 km<sup>2</sup> consisting predominantly of rural and agriculture lands. The Town of Aylmer is the largest urban centre within the watershed comprising an area of about 6km<sup>2</sup>. There is approximately 570km of impervious road within the watershed. Using some basic general assumptions, the impervious layers within the watershed total about 1.4% (and possibly higher) of the watershed. Agricultural tilling is about 36% of the watershed, which may or may not add to the initial spring freshet if the ground is frozen. Over land, runoff and or ponding would be the primary means for field water dispersal and/or storage.

These factors of development (urban or agriculture) coupled with potentially unsuitable impervious layer drainage contribute to spring runoff. First, into approximately 670km of open channels and/ or drains, then into the Catfish Creek main stream and finally draining into Lake Erie at Port Bruce. The same 670km of open channel have the potential to contribute and convey ice flows within the Catfish Creek main stream during break-up. If an assumption is made that only the ice from Jamestown and below migrates through Port Bruce to the harbour then there is approximately 68,733m<sup>3</sup> of 12-inch ice available to jam within Port Bruce. For a visual association, assuming a 16m<sup>3</sup> volume dump truck this volume equates to 4,296 trucks.

Several locations within Port Bruce are susceptible to ice jams. These areas are generally at creek meanders, areas that widen and then narrow. Flows are generally slower on the inside of a bend and these areas are known as depositional zones and can be identified by sand or gravel bars and shallower areas during open water (spring, summer and fall). In general terms, creek flows act the same under freshet conditions as they do under open channel conditions. The flows are slower on the inside of a bend and consequently the ice will start jamming (depositional) from the inside bend to the outside of a bend. When sufficient hydraulic pressure has built up behind the jam, it will start moving down stream again.

The other general areas are where the channel widens (energy dissipates) and flows slow causing potential ice jamming the creek then narrows and the upstream dissipated energy is insufficient to push the ice through the narrowing (north end of Levis Street in Port Bruce is a very good example of this). Within Port Bruce, the areas where the channel widens are also associated with reaches where the banks are relatively lower (flood plain). These ice jam areas may induce flooding as the water has nowhere to flow within the natural channel and breaches the banks inundating the flood plain areas. If a reach of the creek transitions to a narrower portion then the ice will jam in these areas, as again there is not enough hydraulic pressure to move the jam through the narrow section.

The aforementioned can be translated to the Catfish Creek at Rocabore Bay and the confluence at Lake Erie. This section is an area that the creek flows from a narrow reach to the bays, wider reach and then again is forced into a narrow section at the harbour. The creek loses hydraulic force as it moves into Rocabore Bay. The bay has an over flow section at the distal end of the bay to assist with discharging high water but may lose capacity by jamming with ice. As the energy in the bay is dissipated, the primary flows are then forced through a narrow section (harbour) before emptying into Lake Erie. This area is almost guaranteed to produce an ice jam forcing water to back up and breach the banks into the beach area of Port Bruce and along Colin Street. If there is lake ice at the opening of the harbour then the probability of ice jamming increases.

The Riggs report, *Catfish Creek Conservation Authority, Port Bruce Sedimentation Study Port Bruce, Ontario*, Riggs Engineering Ltd., May 9, 2012, outlines that the Catfish Creek is in equilibrium, meaning the eroded sediment transported by the creek is removed by the creek out to Lake Erie. At the time of the February 2022 flooding the lake level was down by approximately 0.22m (9in.). The alleged shallowness at the harbour is assumed to be due to the absence of dredging where in fact there is a possibility that the lower lake levels also contributed to the depth of water in the creek.

The perception that the 2022 ice jam was more severe than other years due to the lack of dredging may be a possibility, but when evaluating the causes of the ice jamming all morphological factors and physical forces need to be respected. Such as but not limited to riverine water flows, ice thickness, location of ice jam, morphology of the creek at the ice jam locations, Lake Erie water level (22cm below February average) and equipment used to assist with ice jam mitigation.

Comprehension of the movement of the riverine ice at the harbour, and the historical cost effective and efficient method to mitigate an ice jam at the harbour mouth, is with the use of a dragline. The dragline is capable of reaching across the entire width of the creek confluence, agitating the ice to allow the ice to freely move out to the lake, pushing the jammed ice under the lake ice, dredging ice from the harbour and casting the ice out onto the lake ice. This causes lake ice to break from the weight, thereby opening a larger area for the ice to move out into the lake and to be forced under the lake ice due to riverine flows.

### Information on the Design and Construction of the New East Break Wall

CCCA provided input with regard to accessibility for ice breaking and subsequent removal, along with a suggestion to clear the overflow structure at the distal end of Rocabore Bay of vegetation and accumulated debris to provide a secondary pathway for the conveyance of ice and water flows.

The only change requested by CCCA was the clean up of the overflow structure at Rocabore Bay which does not have any adverse effects on the functionality of the break wall. The benefit may be that high water and ice would possibly have a secondary outlet to the lake.

### The Need for Updated Flood Study

A new flood line elevation study needs to be carried out within the village of Port Bruce.

The CCCA continues to apply for funding to update flood line elevations through various programs such as the Flood Hazard Identification and Mapping Program (FHIMP), which is intended to help Canadians better plan and prepare for future floods. Until matching funding is secured this proposed study is on hold.

### Process Changes

As in most years after a flood, CCCA reviews their Flood Watch and Warning Procedure Manual along with the Ice Management Plan for the Village of Port Bruce. There is one possible addition in 2022 to both of these manuals that would calculate freezing and thawing days for ice development and melt to further assist with ice management throughout the watershed and consequently Port Bruce. The CCCA has not identified any deficiencies in their flood warning procedures or ice mitigation practises, which have proven to be reasonably successful in the past. Deviation from the procedures outlined in the manuals has proven to be ineffective.

Prior to the winter season CCCA will suggest a meeting with the Township of Malahide staff responsible for flood and ice mitigation measures to discuss any concerns and or suggestions regarding the upcoming flood and ice breaking responsibilities outlined below.

- a) Compile real-time stage and discharge data using the Water Survey Canada gauge, Catfish Creek at Sparta (02GC018).
- b) When required, communicate with the Port Bruce harbor ice breaking/removal contractors regarding the commencement of ice management activities.
- c) Maintain communications with the Municipal Emergency Coordinator.
- d) Issue appropriate Watershed Statements, Watches and Warnings to Municipal Emergency Co-ordinators, media and applicable agencies.
- e) Maintain communications with Authority staff responsible for flood monitoring information and data.

- f) Administer all CCCA media and public inquires.
- g) Maintain up-to-date current records of all flood related communications with CCCA staff, Malahide staff, contractors and flood relevant communications with citizens.
- h) It is essential that the on duty lead flood watch supervisor is available for flood related communications at all times during a flood event.
- i) Verify a constant and current record of all communications is maintained at the Authorities center of operations.
- j) When required monitor ice conditions on the Catfish Creek commencing at Jamestown Bridge downstream to the Port Bruce harbor.

At present and without some extreme changes to the morphology of the creek ice jamming will continue to be a problem within the Village of Port Bruce. All factors need to be addressed when looking at the flooding within Port Bruce. One of the major issues is that the flows that cause the jamming are not considered extreme flows; most have been between the two and 5-year return periods. These lower flows will not move most ice through the reaches within Port Bruce. As an example flooding occurred in February of 2008 with only six inches of ice.

Most of the land that comprises Port Bruce is a flood plain. Unless altered, water bodies that flow through these areas reclaim the land as and when required to convey water down stream.

### Dredging Synopsys

Dredging at Port Bruce was suspended in 2018 due to cutbacks in government funding. The sources of funding for these types of Provincially Mandated flood damage reduction activities have varied greatly from year to year as outlined below.

Dredging and ice breaking was originally funded on a 50/50 basis through our Section 39 Provincial Operating Grants. The Township of Malahide was responsible for 50% of the cost as the Special Benefiting Municipality. The aforementioned funding arrangement continued until the CCCA could no longer afford to use its Provincial Operating Grants that have remained at the same level since 2000.

The CCCA then submitted applications to the Ministry of Natural Resources and Forestry (MNRF) under the Water and Erosion Control Capital Infrastructure Program (WECI) to fund the dredging work on a 50/50 cost shared arrangement with the Township of Malahide. This option proved successful until the MNRF deemed the dredging ineligible under WECI because it was considered "maintenance dredging" and not a capital project.

In 2014, the CCCA applied to the Flood Disaster Mitigation Infrastructure - New Building Canada Small Communities Fund. The CCCA was successful receiving \$70,000.00 in funding to remove sediment from the Catfish Creek Sediment

Retention Structure. The project was completed in February, 2017, on a cost shared arrangement with the Government of Canada (\$23,250.00), the Province of Ontario (\$23,250.00) and the Township of Malahide (\$23,500.00). The CCCA has had no contingency plan available to fund the dredging and ice breaking since 2018.

### Programs and Services

Conservation Authorities, created in 1946 by an Act of the Provincial Legislature, are mandated to ensure the conservation, restoration, and responsible management of Ontario's water, land, and natural habitats through programs that balance human and environmental needs.

The fundamental goal of Conservation Authority staff is to provide CCCA partner municipal staff with data and information to enable sufficient lead time to allow emergency procedures to promote residents safety, safeguard flood prone areas and minimize flood related damage. The CCCA flood-monitoring program is not exclusive to Port Bruce it is provided to all CCCA member municipalities within the authority's administrative boundary.

### Mandatory Programs and Services

Many of these programs and services are jointly funded by municipalities, minimal contributions from the Province, and in most cases, through self-generated funding by the CCCA. The CCCA receives a levy from the Town of Aylmer, Malahide Township, Township of Southwest Oxford, Municipality of Central Elgin and the City of St Thomas, which forms part of our budget. The remainder of the budget is funded through user fees, membership fees, grants and donations. Operations of conservation areas are entirely self-funded. Our financial statements, which are audited every year, are available to the public, once approved by our Board of Directors.

With recent amendments to the Conservation Authorities Act the below annotated list are all mandatory components of a Conservation Authority.

A Conservation Authority shall provide programs and services to support its functions and responsibilities related to flood forecasting and warning. The authority's functions and responsibilities with respect to flood forecasting and warning are:

- Maintaining information on surface water hydrology and the areas within the authority's area of jurisdiction that are vulnerable to flooding events.
- Developing operating procedures for flood forecasting and warning, including flood contingency procedures to ensure continuity of an authority's operations in respect of flood forecasting and warning.

- Maintaining a stream flow monitoring network that, at a minimum, includes stream flow gauges available as part of the provincial-federal hydrometric network and, where the authority considers it advisable, includes additional local stream flow gauges.
- Monitoring of weather and climate information, snow surveys and observed water levels and flows utilizing local, provincial and federal data sources.
- Analysis of local surface water hydrologic conditions related to flood potential and risk, including flood forecasting, to understand and quantify the response and potential impacts within watersheds to specific events and conditions.
- Communications to inform persons and bodies that the authority considers advisable of the potential or actual impact of flood events in a timely manner.
- Provision of ongoing information and advice to persons and bodies mentioned in paragraph 6 to support, emergency and flood operations during a flood event, and documentation of flood events.
- An authority shall provide programs and services for ice management within its area of jurisdiction, if the authority determines that ice management is necessary to reduce the risks associated with natural hazards.
- Programs or services provided shall include the development and implementation of an ice management plan on or before December 31, 2024 that identifies,
  - how ice within the authority's area of jurisdiction may increase the risk of natural hazards; and
  - the steps that are necessary to mitigate these risks, including identifying equipment and resources needed to carry out these steps.
- An authority may update the ice management plan from time to time, as the authority considers it advisable.

### Flood Mitigation Measures

A Flood Warning Plan for the Catfish Creek watershed has been compiled to provide a systematic procedure for the Catfish Creek Conservation Authority (CCCA) staff to consult during flood emergencies. If necessary after the flood season, the document is



reviewed to assess the viability and evaluate recommendations stemming from the previous year's high water events.

In general, the objective of the Flood Warning Plan is to link flood emergency personnel of the Catfish Creek Conservation Authority, its member municipalities, government emergency organizations, applicable provincial government agencies and police to assist in reducing the potential for flood-associated damage. Specific emphasis is placed on areas of the watershed that are largely susceptible to flooding; the Village of Port Bruce is one of six such flood prone areas within the Catfish Creek watershed.

Flooding in any area is not limited to spring freshet and ice breakup / jamming conditions. It can occur at any time when there are adverse weather conditions connected with extreme precipitation patterns. Historically, flooding within the Village of Port Bruce has been associated with spring freshet and ice breakup conditions.

Ice jams are highly unpredictable. Unlike free flowing conditions, ice jam circumstances may be difficult to provide reliable advanced flood warnings. CCCA is working responsibly and diligently to generate timely Watershed Condition Statements, Flood Watches and Flood Warning Statements during adverse water level circumstances. When applicable the aforementioned statements are posted on the Authority's Website [www.catfishcreek.ca](http://www.catfishcreek.ca) and related CCCA social media platforms.

As conditions vary, the Authority will update these statements to inform property owners of the changing circumstances. The objective of these bulletins is to allow the landowner time to take appropriate action suitable to their needs. Watershed Condition Statements and associated Flood Watches and Warnings will be circulated to local radio, media, Municipal Flood Co-ordinators or special agencies at the discretion of the Conservation Authority Flood Co-ordinator.

Ice jam mitigation is an integral component of the CCCA Flood Management Plan. As previously mentioned, ice jams are unpredictable, "While ice jams may be relatively common at a given site, they cannot be predicted with certainty in any given year." Department of the Army, United States Army Corps of Engineers, EM 1110-2-1612 Manual.

At present, the CCCA uses the following tools in addition to the Flood Management Plan to assist with ice jam mitigation:

- The removal of all seasonal docks, support structures and any other possible obstruction inducing items from the waters of Catfish Creek and flood plain areas by mid November. This request is intended to assist in reducing potential impacts because of flooding and/ or in channel ice build-up. Leaving obstructions in the channel may accelerate ice build-up and consequently adversely influence the movement of in channel ice through Port Bruce. Channel flow patterns around obstructions may also accelerate creek-bank erosion during high run-off periods. Boat docks dislodged due to flooding or ice jam events can pose a serious safety

threat to the public. In addition, all other floatable objects such as; picnic tables, propane tanks, barrels, etc. need to be removed or secured within flood prone areas.

- Ice Monitoring, during ice melt and subsequent break-up will be reinstated in 2023. The ice is monitored and inspected whenever deemed safe and necessary, to ensure up to date flow and ice break-up information/conditions to assist with possible ice jamming circumstances. The program is designed to sample channel ice quality and quantity, which may have the potential to cause ice jams and associated flooding in Port Bruce.
- Ice Hole Drilling is a process where holes are drilled through the ice cover in a systematic pattern to reduce the integrity of the ice and are intended to accelerate ice melt and breakup at strategic locations within a channel and potentially limiting/mitigating ice jam formations. CCCA uses an ice auger to drill holes at a time that will minimize whole freeze-back and allow channel flows to further weaken the ice cover through hydraulic vortex erosion/melting during spring freshet and ice melts. This mitigation measure was suspended under previous management due to staff safety. Ice thickness varies greatly, depending on the location within the channel, and has triggered staff safety concerns in the past. This mitigation measure is being assessed by staff for safety and effectiveness.
- Ice breaking/ice removal at the Port Bruce Harbour is carried out in advance to the spring freshet to allow for an open channel for initial ice migration to the lake, thereby helping to mitigate ice jam induced flooding within the Village of Port Bruce. Ice breaking is carried out at a time when weather patterns are conducive to spring freshet and ice integrity degradation. The intention is that the remaining in channel ice cover will be flushed out to the lake by the spring freshet, thereby minimizing an opportunity for ice jam formations within the Village of Port Bruce. In some instances, simply breaking the ice cover is not sufficient, and is often accompanied by continuous ice mitigation measures by the equipment to clear the ice within the harbour area during in channel ice migration.

Submitted By:	Peter Dragunas:	Water Management Technician
	Dusty Underhill:	General Manager/ Secretary Treasurer

*Mission Statement: "To communicate and deliver resource management services and programs  
In order to achieve social and ecological harmony for the watershed"*



**THE CORPORATION OF THE TOWNSHIP OF MALAHIDE****BY-LAW NO. 22-74**

Being a By-law to authorize the execution of an agreement with Hillside Kennels Animal Control Ltd. for the use of its Canine Control and Pound Keeper Services by the Township.

**WHEREAS** Section 5(3) of the Municipal Act, 2001, c. 25, as amended, authorizes a municipality to pass by-laws to exercise its municipal powers;

**AND WHEREAS** Hillside Kennels Animal Control Ltd. has Canine Control and Pound Keeper Services;

**AND WHEREAS** Hillside Kennels Animal Control Ltd. has agreed to the use of Canine Control and Pound Keeper Services with the Corporation of the Township of Malahide subject to the entering into of an agreement for such use;

**AND WHEREAS** the Council of The Corporation of the Township of Malahide is desirous of entering into an agreement with Hillside Kennels Animal Control Ltd. for the use of its Canine Control and Pound Keeper Services for the impoundment and welfare of dogs;

**NOW THEREFORE** the Council of The Corporation of the Township of Malahide **HEREBY ENACTS AS FOLLOWS:**

1. THAT the Mayor and the CAO were hereby authorized and directed to execute on behalf of The Corporation of the Township of Malahide the said Agreement as that attached hereto as Schedule "A" and forming a part of this By-law.
2. THAT all previous by-laws passed appointing animal control services for the Township of Malahide are hereby repealed in their entirety.
3. THAT this By-law shall come into force and take effect on the final passing thereof.

**READ a FIRST and SECOND** time this 6<sup>th</sup> day of October, 2022.

**READ a THIRD** time and **FINALLY PASSED** this 6<sup>th</sup> day of October, 2022.

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Mayor, D. Mennill

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Clerk, A. Adams

**THE CORPORATION OF THE TOWNSHIP OF MALAHIDE****BY-LAW NO. 22-75**

Being a By-law to adopt, confirm and ratify matters dealt with by resolution of the Township of Malahide.

**WHEREAS** Section 5(3) of the Municipal Act, 2001, c. 25, as amended, provides that the powers of every council are to be exercised by by-law;

**AND WHEREAS** in many cases, action which is taken or authorized to be taken by the Township of Malahide does not lend itself to the passage of an individual by-law;

**AND WHEREAS** it is deemed expedient that the proceedings of the Council of the Township of Malahide at this meeting be confirmed and adopted by by-law;

**NOW THEREFORE** the Council of The Corporation of the Township of Malahide **HEREBY ENACTS AS FOLLOWS:**

1. THAT the actions of the Council of the Township of Malahide, at its regular meeting held on October 6, 2022, in respect of each motion, resolution and other action taken by the Council of the Township of Malahide at such meeting is, except where the prior approval of the Ontario Municipal Board or other authority is required by law, is hereby adopted, ratified and confirmed as if all such proceedings were expressly embodied in this By-law.
2. THAT the Mayor and the appropriate officials of the Township of Malahide are hereby authorized and directed to do all things necessary to give effect to the action of the Council of the Township of Malahide referred to in the proceeding section.
3. THAT the Mayor and the Clerk are hereby authorized and directed to execute all documents necessary in that behalf and to affix thereto the corporate seal of the Township of Malahide.
4. THAT this By-law shall come into force and take effect upon the final passing thereof.

**READ** a **FIRST** and **SECOND** time this 6<sup>th</sup> day of October, 2022.

**READ** a **THIRD** time and **FINALLY PASSED** this 6<sup>th</sup> day of October, 2022.

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Mayor, D. Mennill

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Clerk, A. Adams