



TOWN OF INNISFIL STAFF REPORT

STAFF REPORT NO: DSR-164-19

DATE: October 9, 2019

To: Mayor, Deputy Mayor and Members of Council

From: Tim Cane, Manager of Land Use Planning

Subject: Gres Developments Ltd. & Dudo Developments Ltd. -
Zoning By-law Amendment (D14-2018-007) – 1988 7th Line -
Public Meeting Report

Cross Reference: DSR-147-19

RECOMMENDATIONS:

That DSR-164-19, dated October 9, 2019, regarding the Zoning By-law amendment application by Gres Developments Ltd. & Dudo Developments Ltd. at 1988 7th Line be received; and

That Council adopt By-law No. 097-19 to rezone the subject lands legally described as Part of Part Lot 17, Concession 7, and known municipally as 1988 7th Line in the Town of Innisfil from “Agricultural General (AG) Zone” and “Environmental Protection (EP) Zone” to “Agricultural General Exception (AG-32) Zone”, “Environmental Protection (EP) Zone” and “Residential Rural Exception (RR-24) Zone”; and

That pursuant to Section 34 (17) of the Planning Act, R.S.O. 1990, C.P. 13, as amended, in the event that minor revisions are necessary respecting the proposed amending Zoning By-law, further notice shall not be required.

BACKGROUND:

An application for a Zoning By-law amendment was filed with the Town of Innisfil on February 1, 2019 by Bousfields Inc. on behalf of the owners, Edward Gres (Gres Developments Ltd.) and Margaret Dudo (Dudo Developments Ltd.) for 1988 7th Line (the ‘subject lands’). The subject lands are legally described as Part Lot 17, Concession 7, in the Town of Innisfil. A Key Map showing the location of the subject lands is Attachment 1 to this Report.

The applicant proposes to rezone the subject lands from the current “Agricultural General (AG)” Zone to “Residential Rural Exception (RR-24)” Zone, “Agricultural General Exception (AG-32)” Zone and “Environmental Protection (EP)” Zone to facilitate the creation of two (2) additional lots.

The retained lands will be subject to the proposed “Agricultural General Exception (AG-32)” Zone and the “Environmental Protection (EP)” Zone (Attachment 3).

The subject lands are approximately 33.08 hectares in area, with approximately 261.89m of frontage on the north side of 7th Line, and is currently occupied by a metal clad barn, with the balance of the lands being used for agricultural purposes and conservation. The subject lands are surrounded by agricultural lands and single detached dwellings to the north, east and south, and conservation and Town owned lands to the west.

The applicant has submitted a sketch plan showing the dimensions of the proposed residential lots along with the lands to be retained, which is Attachment 2 to this Report. Two Committee of Adjustment applications are proposed to be submitted by the applicant subsequent to the rezoning process to formally sever the lands, if the rezoning is approved.

The statutory Public Meeting was held on September 18, 2019 to hear any concerns and answer any questions regarding the proposed Zoning By-law amendment. Notice of this Public Meeting was provided to all agencies, stakeholders and landowners within 120m of the subject lands, in accordance with the Ontario Regulations. Signage was posted on the property, and notice was provided in the newspaper and the Town website.

ANALYSIS/CONSIDERATION:

Provincial Policy Statement (PPS)

One of the key policy directions expressed in the Provincial Policy Statement (PPS) 2014 is to build strong, healthy communities by promoting efficient development and land use patterns, accommodating an appropriate range and mix of residential and other uses to meet long-term needs, and promoting cost-effective development patterns and standards to minimize land consumption and servicing costs.

As per policy 1.1.4.1, healthy, integrated and viable rural areas should be supported by, among other things, promoting regeneration, accommodating an appropriate range and mix of housing in rural settlement areas, using rural infrastructure and public service facilities efficiently, and providing opportunities for economic diversification. The portion of the subject lands pertaining to the future proposed severances are located within the “Rural” designation.

Policy 1.1.4.4 provides that growth and development may be directed to rural lands, in accordance with policy 1.1.5. Policy 1.1.5.1 sets out that when directing development on rural lands, a planning authority shall apply the relevant policies of Section 1: Building Strong Healthy Communities, as well as the policies of Section 2: Wise Use and Management of Resources, and Section 3: Protecting Public Health and Safety. As per policy 1.1.5.2, the permitted uses on rural lands include limited residential development, and as per policy 1.1.5.4, development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted. Further, as set out in policy 1.1.5.5, development shall be appropriate to the infrastructure which is planned or available, and avoid the need for the unjustified and/or economical expansion of this infrastructure. Policy 1.1.5.9 provides that new land uses, including the creation of lots, shall comply with the minimum distance separation formulae. A minimum distance separation calculation has been submitted concurrently with this application. As per policy 4.7, Official Plans are the most important vehicle for implementing the Provincial Policy Statement. The County of Simcoe Official Plan permits lot creation for residential purposes within

the “Rural” designation. The proposed Zoning By-law Amendment therefore, in the opinion of staff, would be considered consistent with the PPS.

Places to Grow – Provincial Growth Plan

The current Growth Plan came into effect on May 2019. Section 3(5) of the Planning Act requires that all decisions that affect a planning matter shall conform to the Growth Plan.

As per policy 4.2.4, outside settlement areas, a proposal for new development or site alteration within 120 metres of a key natural heritage feature or a key hydrologic feature will require a natural heritage evaluation that identifies a vegetation protection zone. An Environmental Impact Study has been submitted concurrently with the application.

Policy 6.3(5) notes, for the sub-Simcoe area, that any lands designated for agricultural uses or rural uses in a lower-tier Official Plan as of January 20, 2017 can only be designated for development through a municipal comprehensive review and subject to the policies in subsection 2.2.8. However, as per policy 2.2.9(6), new multiple lots or units for residential development may be allowed on rural lands in site-specific locations with approved zoning or designation in an Official Plan that permitted this type of development as of June 1, 2006. The 2006 County of Simcoe Official Plan permitted the creation of new residential lots in the “Rural” designation, as set out in Policy 3.6.11.

Lake Simcoe Protection Plan (LSPP)

The subject site is outside of a Settlement Area and is not a Major Development and would not be subject to the Settlement Area and Major Development policies of the Lake Simcoe Protection Plan. For the two proposed lots, on-site domestic wells and septic systems are proposed. The Hydrogeological Assessment (prepared by R.J. Burnside & Associates Limited, dated September 2017) concluded that the use of on-site sewage system at each lot will have negligible effects on local groundwater resources, that no significant increase in runoff is expected due to the rural residential nature of the proposal and that a suitable potable water supply can be obtained from an overburden groundwater supply on each of the new lots. The Environmental Impact Statement prepared by Sage Earth Environmental Services (prepared November 2017) concluded that the proposed lot severances and their associated development envelopes will be located in the least sensitive parts of the property from a Natural Heritage perspective and that proposed lot severances and their development envelopes will be located outside of the physical boundaries of all the natural features.

County of Simcoe Official Plan

The subject site has a split designation of “Rural”, “Agricultural” and “Greenlands”, as per Schedule 5.1 – Land Use Designations. The portion of the site for the proposed severances is designated as “Rural”.

Under the Rural designation, limited residential development is permitted, as provided for in policy 3.7.4. Further, limited residential may be created through consent, provided the following is satisfied, as per policy 3.7.8:

- a) lots should be restricted in size in order to conserve other lands in larger blocks for agricultural uses or environmental purposes. Consent lots should be developed to an approximate size of one hectare, except where large sizes may be suitable because of environmental constraints or design considerations; and

b) the number of lots on the grid system shall be restricted in order to maintain the rural character and road function and to avoid strip development.

Section 5.8, Definitions states: “strip development” is lot creation in the Rural Designation:

(a) along roads that are part of the originally surveyed concessions and side roads or are other more recently surveyed arterial or collector roads which are not part of an internal local road system; and

(b) which is arranged in linear configurations of more than three non-farm lots within 200 metres of the proposed lot line as measured along the frontage of one side of the road.

Generally, lots may only be created where they have access to and frontage on a public highway, and must comply with the minimum distance separation formula, as provided for in policies 3.3.4 and 3.3.14.

As per policy 3.7.10, development in rural areas should wherever possible be designed and sited on a property so as to minimize adverse impacts on agriculture and to minimize any negative impact on significant natural heritage features and areas and cultural features. The proposed Zoning By-law amendment to facilitate the creation of two (2) lots is considered to meet the policies of the County of Simcoe Official Plan.

Town of Innisfil Official Plan

The subject lands are designated as “Countryside Area” and “Natural Heritage System Area” on Schedule A: Municipal Strategy. The portion of the site for the proposed severances is designated as “Countryside Area”.

The subject site has a split designation of “Rural Area”, “Agricultural Area” and “Key Natural Heritage Feature and Key Hydrological Feature Area”, as per Schedule B – Land Use. The portion of the site for the proposed severances is designated as “Rural Area”. The objectives of the “Rural Area” is to provide for a full range of agricultural and agriculture related uses, on-farm diversified uses as well as rural related uses which support the agricultural and rural community and which fit in to the rural character but are not appropriate in settlement areas.

Permitted uses within the “Rural Area” designation are among other things, one single detached dwelling and other rural uses subject to the appropriate zoning and other supporting documentation.

Section 18.4.7 sets out the requirements for applications for new lots:

- i) the proposed lot will be used for agriculture uses, agriculture-related uses, rural residential use or other rural uses as described in Section 18.4.4;
- ii) the amount and availability of vacant lots of record in the non-urban areas of the municipality are considered and the need for the additional lot demonstrated;
- iii) the new lot does not contribute to the extension or expansion of strip development;
- iv) the new lot is located on an opened and maintained public street or highway;
- v) the feasibility of private septic servicing and confirmation of sufficient reserve sewage system capacity within the Town’s sewer treatment systems for hauled sewage from the private system are demonstrated to the satisfaction of the Town;

- vi) the lot is suitable in terms of topography, soils, drainage, lot size and shape for the use proposed;
- vii) the access to the lot will not create a traffic hazard;
- viii) the proposed use would be compatible with surrounding uses, including existing aggregate operations and will not result in development which would preclude or hinder the establishment of new operations or access to high potential mineral aggregate resources areas as shown on Appendices
- ix) the new lot shall meet the Minimum Distance Separation Formulae.

The proposed rezoning for the lots to be created will be rural residential uses, does not contribute to the extension or expansion of strip development, are located on an open and maintained public street, have sufficient soil capacity and area for private septic systems and reserve area, are suitable in terms of topography, soils, drainage, lot size and shape, will not create a traffic hazard in terms of access, will be compatible with surrounding land uses and meets the Minimum Distance Separation Formulae. The proposed Zoning By-law amendment is considered to meet the policies of the Town's Official Plan.

It is worth noting that, the northern 75% area of the subject lands are designated "Agricultural Area" and "Key Natural Heritage Feature and Key Hydrological Feature Area". If this proposal was contemplated on those portions of the subject lands, staff would not support this application.

Schedule 'B' of the Town's "Our Place" Official Plan is under appeal at the LPAT, however the "Rural Area" designation has not been modified from the "Rural Area" designation in the Town's former Official Plan (adopted 2006).

Town Zoning By-law No. 080-13

The subject lands are currently zoned "Agricultural General (AG)" and "Environmental Protection (EP)". The portion of the subject lands for the proposed severances is zoned "Agricultural General (AG)", and is proposed to be zoned "Residential Rural Exemption (RR-24)". This exemption proposes to permit a side yard minimum setback of 1.75m. The northwest quadrant of the land is proposed to be rezoned to "Environmental Protection (EP)" to recognize the significant woodlot which is a key natural heritage feature. The "Environmental Protection (EP)" zone will reflect the Official Plan designation and provide for better protection of the key natural heritage feature. The balance of the lands are proposed to be rezoned to "Agricultural General Exemption (AG-32)", which proposes to permit a lot area minimum of 15 hectares. A copy of the Zoning By-law amendment is attached as Attachment 3.

Additional Considerations

The lands subject to the future severances will be required to obtain a site entry permit to accommodate the driveways accessing the lots. Town staff note that the property boundary hedgerows should be preserved and the site entry permit should not be issued without consultation with the Planning Department.

The purpose and effect of the Recommendation 3 of this report is a clause in *Planning Act*, Section 34 (17). This clause allows where a change is made to a proposed Zoning By-law after the holding of a Public Meeting, it gives Council the authority to determine whether any further Notice is to be given with respect to any changes. The determination of Council as to the giving of further Notice is final and not subject to review in any court irrespective of the extent of the change made in the proposed Zoning By-law.

Comments Received

As of the writing of this report, the following written comments have been received:

Lake Simcoe Region Conservation Authority (LSRCA) – September 18, 2019 – No objections to the proposed Zoning By-law Amendment. The lands subject to proposed two (2) lots are not within an area governed by O. Reg. 179/06 of the *Conservation Authorities Act*.

A Public Meeting was held at the Town Hall September 18, 2019, which was attended by five people (subject land owners and neighbouring residents). No concerns were raised by members of the public.

Councillor K. Eisses requested clarification on the zoning of this property, and whether it would allow for the creation of the lots. Staff explained that the proposal conforms to applicable Provincial, County and Town policies and plans. Additionally, staff reviewed historical Town Official Plan policies applicable to the subject lands with respect to the “Rural Area” designation. The portion of the subject lands which propose the rezoning which will permit the two (2) lots has historically been designated “Rural Area”. The reason for that designation is based on the Canada Land Inventory (CLI) Soil Classification which is between Class 5-7, meaning the lands have very severe limitations that restrict their capability to produce perennial forage crops. Lands which have Class 1-4 have ‘no’ to ‘moderate’ limitations with regard to soil capability and are designated “Agriculture Area”.

OPTIONS/ALTERNATIVES:

Council has the option of amending, deferring or denying the proposed Zoning By-law Amendment.

FINANCIAL CONSIDERATION:

All costs incurred by the Town for the purposes of these applications are recovered from the applicant, resulting in no net financial impact to the Municipality.

CONCLUSION:

The proposed Zoning By-law amendment would result in the permission to create two (2) rural residential lots which will be compatible with the rural landscape and can be sustained by private services. From a land use perspective, the proposed lots would not constitute strip development and will be compatible with the existing surrounding agricultural uses and environmental features. The required Minimum Separation Distance setbacks are met and exceeded. It is staff’s opinion that the proposed Zoning By-law amendment to facilitate the creation of two (2) lots is considered to meet the policy documents of the Province, LSRCA, County and Town.

PREPARED BY:

Chris Cannon, Placemaker/Planner

APPROVED BY:

Tim Cane, Manager of Land Use Planning

Attachments:

1. Key Map
2. Proposed Concept Plan (Site Layout)
3. Zoning By-law Amendment and Schedule 'A'