

**Committee of the Whole (Planning)
Municipality of West Grey
Minutes of January 16th, 2017, at 1:08 p.m.**

The Committee of the Whole (Planning) met at the Council Chambers with the following members in attendance.

Council Mayor Kevin Eccles, Deputy Mayor John A. Bell, Councillor Bev Cutting, Councillor Doug Hutchinson, Councillor Carol Lawrence, Councillor Rob Thompson
Staff: Mark Turner, Clerk
Also Present: Ron Davidson, Municipal Planner

1) Disclosure of Pecuniary Interest - None

2) Public Meetings

1) Zoning Bylaw (Housekeeping) Amendment

The Secretary-Treasurer read the statutory requirements for the Public Meeting, and noted the purpose of the Housekeeping By-law Amendment is to correct a few errors and omissions that have been detected since the By-law was adopted in 2006 and to make other changes to the By-law including the addition of provisions for the placement of "shipping containers" in certain zones.

Written comments were received from the Grey County Planning & Development Department, Saugeen Valley Conservation Authority, the Historic Saugeen Metis, and Thomas & Diane Noble.

The Historic Saugeen Metis indicated by email that they have no objection or opposition to the proposed rezoning.

The Grey County Planning & Development Department indicated in a letter dated January 4, 2017 that County planning staff have no concerns with the proposed housekeeping by-law.

The Saugeen Valley Conservation Authority indicated in a letter dated January 9, 2017 that the Authority has reviewed the proposed amendments to West Grey Zoning By-law Number 37-2006, as amended, in accordance with the SVCA's mandate and policies and the Memorandum of Agreement, and find it acceptable.

The Municipal Planner highlighted the provisions contained in the proposed housekeeping by-law.

Thomas & Diane Noble submitted a letter dated December 31, 2016 indicating the public meeting for the proposed zoning by-law is to correct errors and omissions in West Grey Zoning By-law Number 37-2006, as amended. The Nobles' were interested in building a driving shed on their property and went to the SVCA on August 18, 2016 to determine what was needed from the SVCA, and the SVCA indicated their proposed building was in the NE Zone. The Nobles' indicated in the letter they showed the SVCA mapping from West Grey which did not match the SVCA mapping, and therefore, want Council to recognize the map that the SVCA has. It was noted that the Clerk had requested the SVCA back in August 22, 2016 to provide mapping of what they consider to be the NE Zone, so the Zoning Schedule can be amended accordingly if the NE Zone in the existing Zoning Schedule is not reflective of the hazard area defined by the SVCA.

An email dated January 13, 2017 from Paul Elston provided a map to re-delineate the NE Zone on the subject property owned by Thomas & Diane Noble, and therefore, it is recommended that the proposed housekeeping by-law be amended to include the revised NE Zone for the subject property.

Mayor Eccles noted that the present West Grey Comprehensive Zoning by-law does not permit shipping containers at present.

Tom Noble noted his concerns with the NE Zone, that doesn't reflect what was previously approved by the SVCA. Mr. Noble was shown the revised NE mapping proposed by the SVCA, and indicated he is agreeable to the proposed revised NE Zone.

Dawn Hartman mentioned she has a sea container on her property, and phoned West Grey two years ago and was told West Grey does not have a problem with it. Mayor Eccles indicated the proposed housekeeping by-law will legally recognize shipping containers to be permitted in certain circumstances that at present are not permitted in the present zoning by-law.

Bob Weirmeir opined that under section 34(9) of the Planning Act the shipping containers are legal non-conforming and are therefore permitted. The Municipal Planner noted a legal non-conforming use does not relate to a zoning by-law amendment passed in 2017, and noted shipping containers on properties are not permitted in the current West Grey Comprehensive Zoning Bylaw Number 37-2006, as amended, and are therefore not

permitted. Bob Weirmeir challenged that a use not noted, would be permitted.

Bob Weirmeir opined that a shipping container shall be deemed as an accessory structure and suitable to the building code. The Clerk noted other municipalities have similar shipping containers in place and have indicated shipping containers are deemed as accessory structures and require a building permit, and West Grey shares that opinion.

Barry Coon asked if this by-law is a result of complaint calls. Mayor Eccles responded that it has come to the attention of West Grey that shipping containers are more of a desirable use as an accessory structure for storage, and want to recognize through zoning.

Bob Weirmeir suggested shipping containers should only be an issue if it affects neighbours, as long as they meet lot line requirements. The Clerk noted that shipping containers are not currently permitted in the Zoning By-law, and the housekeeping by-law will permit shipping containers in certain circumstances.

The Committee of the Whole indicated support for amending the housekeeping/zoning by-law to revise the NE Zone on the Tom & Diane Noble property as per the SVCA mapping. The Committee of the Whole also requested the Municipal Planner and Clerk review section 4 of the proposed housekeeping/zoning by-law for possible amendment.

Thompson-Bell, Resolved that, the West Grey Committee of the Whole (Planning) hereby recommends West Grey Council approves the Housekeeping zoning bylaw amendment, as amended.

... #1-17

Carried.

- 2) Zoning Bylaw Amendment Application ZA-14-16 – Part Lot 29, Concession 2 WGR, former Township of Bentinck (John Spaleta)

A joint Grey County/Municipality of West Grey public meeting was held at the Municipality of West Grey Council Chambers, Durham, Ontario with the following members in attendance:

Municipal Council Members Present: Mayor Kevin Eccles, Deputy Mayor John A. Bell, Councillor Doug Hutchison, Councillor Rob Thompson, Councillor Bev Cutting and Councillor Carol Lawrence.

Municipal Staff Present: Ron Davidson, Municipal Planner and Mark Turner, Clerk

County Staff Present: Scott Taylor, Planner and Monica Scribner, Recording Secretary

Also present: Nik Kohek, Cuesta Planning Consultants Inc. and John Spaleta, applicant

Proposed Official Plan Amendment and Proposed Zoning By-law Amendment on lands described as Part of Lot 29, Concession 2 WGR, 442830 Sideroad WGR; in the Municipality of West Grey (Geographic Township of Bentinck) County file number 42-05-280-OPA-137.

Call to Order

Mayor Eccles called the public meeting to order and welcomed everyone to the Joint Public meeting on behalf of the Municipality. Chair Eccles welcomed everyone on behalf of the County. Introductions then followed. Scott Taylor read the regulations.

The proposed Official Plan Amendment and Zoning By-law Amendment affect those lands described as Part of Lot 29, Concession 2 WGR, 442830 12th Sideroad WGR, in the geographic Township of Bentinck, now in the Municipality of West Grey.

This development requires two applications, a County of Grey Official Plan Amendment application, as well as a Municipality of West Grey Zoning By-law Amendment application. In order for the development to move forward, approvals are needed on both of these applications. The County makes the decision on the County Official Plan Amendment application and the Municipality makes the decision on the Zoning By-law Amendment application.

The proposed County Official Plan Amendment would consider an exception to the policies of the 'Rural' designation to allow for a seasonal dwelling on the subject lands. The seasonal dwelling would be located on 12th Sideroad WGR, which does not have year-round maintenance. The County Official Plan normally requires new development to be located on roads which are maintained year-round.

The proposed West Grey Zoning By-law Amendment would implement the Official Plan Amendment by considering an exception to the existing Rural

'A2' zone to allow for the proposed seasonal dwelling. Similar to the County Plan, the West Grey Zoning By-law does not currently permit new development on roads which do not have year-round maintenance. As required by Section 17 and 34 of the Planning Act RSO 1990, as amended, Council shall ensure that at least one public meeting is held, notice of which shall be given in the manner and to the persons and public bodies containing the prescribed information.

In accordance with the Planning Act and the implementing Regulation being Ontario Regulation 543/06 and 545/06, the County of Grey gave notice of this Public Meeting on behalf of the County and the Municipality, by individual prepaid first class mail to persons within 120 metres based on the most recent assessment information provided by MPAC (Municipal Property Assessment Corporation), and to an extensive list of agencies as set out in the regulations. The public meeting notice is located on the County web site at www.grey.ca.

It is imperative to note that:

Any person or public body may attend the Public Meeting and make written and/or verbal representation either in support of or in opposition to this proposal. If a person or public body that files an appeal of the decision of the County of Grey in respect of the proposed Official Plan Amendment or Zoning By-law Amendment and does not make oral submissions at the Public Meeting or make written submissions to the County of Grey before the proposal is approved or refused, the Ontario Municipal Board may dismiss the appeal.

If a person or public body does not make oral submissions at the public meeting or make written submissions to the County of Grey in respect of the proposed Official Plan Amendment and Zoning By-law Amendment before the approval authority gives or refuses to give approval to the Official Plan Amendment, the person or public body may not be added as a party to the hearing of an appeal before the Ontario Municipal Board unless, in the opinion of the Board, there is reasonable grounds to do so.

If you wish to be notified of the decision of the proposed Official Plan Amendment you must make a written request to the County of Grey at 595 9th Ave. East, Owen Sound, Ontario N4K 3E3. This can be mailed to the County or deposited with the Administrative Assistant, Monica Scribner this afternoon.

If you wish to be notified on the decision of the Zoning By-law Amendment, please make a similar request to the Municipality.

If there are any comments, questions or concerns for those in attendance this afternoon please address the Chair and give your name and Lot and Concession, or civic address, for the record.

Comments received from the following:

West Grey Fire Service, dated September 12, 2016

West Grey Fire Services access Sideroad 12 from either Highway 6 or Concession 2 WGR depending on what side of the lake the emergency is on in order to avoid the section of road known as corduroy, the swampy area to the south end of the lake. Although this road has been graveled it is believed that the base is corduroy and in times of high moisture the road becomes very soft and may fail under the weight of a fully loaded fire truck. Generally firefighters would stop and carry emergency equipment to the scene, if that scene was within the area of the corduroy road usually using a pickup truck. If it was dry then a lighter fire truck could be used assuming the area was dry from lack of moisture, this would be the decision of the officer in charge at the time of the incident.

Looking at the driveway in the property in question, it is too soft, too steep and wet to support a fire truck. This driveway would have to be reconstructed to accommodate a heavy vehicle. During the winter months this road is 100% unprotected, that is "no fire protection" is available, as the road is not maintained in the winter. Access would be made using the Police/Fire Snowmobile and this would be for medical emergencies or investigation of fire only.

Bluewater District School Board, dated November 21, 2016

"The School Board does not have any comments at this time."

Historic Saugeen Metis, dated November 28, 2016

The Historic Saugeen Metis (HSM) Lands, Resources and Consultation Department has reviewed the relevant documents and have no objection or opposition to the proposed land re-designation and rezoning through the Official Plan and Zoning By-law Amendments.

Brian Hatch and Gillian Crawford, dated December 20, 2016

They are both very much in support of the amendments stating an additional dwelling will add to the safety of the existing cottagers and help deter vandalism and break-ins. They also stated they have been speaking to their neighbour, Barry Graham who is also in support for approval of the amendments.

Mary and John Lawrence, dated January 6, 2017

They oppose the applications for the following four reasons:

We feel it is not an appropriate area to designate for growth in Grey County and contravenes the Official Plan and 'Rural' designation that is in place to protect the natural environment and watershed areas like McCormick Lake.

The cumulative effects of more seasonal development close to McCormick Lake is very concerning from all perspectives with respect to traffic, environmental impact, lake and watershed health, impact on well water and the rural nature of Sideroad 12 WGR. We support the seasonal designation of 12th Sideroad WGR which is not maintained year round. We do not support amendments to the existing West Grey By-law Rural A2 zone which would allow seasonal dwellings on 12th Sideroad WGR for the reasons stated.

Saugeen Conservation Authority (SVCA), dated January 6, 2017

"All of the plan review functions listed in the Memorandum of Agreement between the Authority and the Municipality of West Grey relating to Plan Review have been assessed by SVCA staff with respect to this proposal. The proposed amendments are acceptable to SVCA staff; however, we are recommending the Natural Environment zone for the property be revised."

West Grey Public Works, dated January 9, 2017

The Director of Infrastructure and Public Works suggests that the road be upgraded, before allowing any further development of any properties on the 12th Sideroad near McCormick Lake to avoid any potential litigation with respect to the current unmaintained status of the 12th Sideroad WGR.

Comments from the Municipal Planner

The purpose of the rezoning application is to change the current 'A2' (Rural) zoning of the subject properties to allow for a seasonal detached dwelling on land fronting onto a municipal road that is not maintained on a year-round basis.

There are two parcels involved in this proposal and both are heavily forested and vacant. If approved, the two properties would merge together to have one larger property. Currently on McCormick Lake some properties have cottages or trailers and some are vacant. They are designated Rural and the proposed use does not conform to the Official Plan (OP) since it is not on an open and year-round maintained road. The applicant has applied to change the Zoning By-law and Official Plan. Both the Zoning By-law and the Official Plan (Section 2.3.3) state you cannot build in this location since it is not maintained year round.

There are natural heritage features including significant woodlands on this property. The OP does not approve of development in those significant woodlands or within the 50 metre adjacent lands, without further study. An Environmental Impact Study (EIS) has been prepared in which the applicant demonstrated a potential building envelope on the land.

Municipal Council Decisions must also be consistent with the Provincial Policy Statement (PPS). Under the PPS, Section 1.1.5.5 states; "Development shall be appropriate to the infrastructure which is planned or available, and avoid the

need for the unjustified and/or uneconomical expansion of this infrastructure.” As per the comments of the Fire Chief and the Director of Infrastructure and Public Works, the current condition and maintenance of the road would not allow for consistent safe access for emergency vehicles, which could result in safety and liability concerns.

Based on the concerns for safety and liability staff recommend refusal of this zoning by-law amendment application.

It was noted that development has occurred on some of the other lots in the immediate vicinity in the past; however no such development has been permitted since the Municipality of West Grey was established through restructuring in 1999.

Comments from Applicant’s Consultant

Nik Kohek from Cuesta Planning gave an overview of the project. He explained that Grey County had required an EIS that determined a suitable building envelope on-site. The Saugeen Valley Conservation Authority has accepted this EIS.

Mr. Kohek provided an example of development on seasonal roads in the Town of South Bruce Peninsula. In these instances, the Town uses site plan agreements, wherein the landowner acknowledges that a road may be seasonal and have limited access, and that the Town is not liable based on the limited access. This site plan agreement is then registered on title, such that future buyers of the land are made aware of the road constraints.

The applicant is aware that this would be a seasonal dwelling and understands the Municipality’s litigation concerns for their property as well as the existing cottages. To permit ease of access to the property, they would place their driveway further over and grade it appropriately.

Comments from the Public

Wayne Sickle of 12th Concession mentioned that McCormick Lake is a beautiful lake that is shallow, has fish, loons, and ducks. Currently traffic on this road is seasonal and the road has at least 20 properties paying taxes to West Grey for that area. He hopes the road can be upgraded and Mr. Spaleta can proceed with his plan. Mr. Sickle also commented on some recent property improvements he had made.

Mary Lawrence of West Grey asked if the three cottages that are currently there were built before 1999, and if there had been any prior amendments. Mr. Turner replied that in the mid 1990’s, there were two applications before Bentinck Council for approval of seasonal dwellings. The zoning by-laws were passed against the recommendations of the Township’s lawyer, clerk, and building official.

John Lawrence of West Grey stated they are content with the development, but do not want to pay for Sideroad upgrades or have the road turned into a fulltime road.

Comments from the Applicant

John Spaleta addressed the audience and stated it is in the interest of his family that they meet all the legal requirements. They undertook an Environmental Impact Study to start off on the right path. The land was logged in 1960. Over time surrounding lands were developed with cabins. They purchased the lot in 2005 to allow for a seasonal cottage. The area is a small portion of the front lot and the construction would be similar to the existing local properties. The Spaleta family feels their proposal is consistent with the uses in the area, and hope to enjoy the property as a beautiful camping lot. He noted they will be good citizens for the area.

Mr. Spaleta stated if given the approval to build the driveway, he would gladly enter into an agreement stating that he understands that certain times of there year there are no emergency services. In the future, he would consider helping with the cost of upgrading the road, but understands his neighbours may not agree or desire this.

Comments from the Municipal Council

Councillor Hutchison commented that his main concern is the road accessibility for fire concerns. Education can be provided on how to prevent fires, but in the winter, there would be no fire coverage at all. While supportive of development and growth, it is unfortunate that the roadway is holding this up. There would be a lot of work and costs to make this a year round road. In the future, if a developer or cottage owners wanted to upgrade the road, it would have to meet municipal standards. It may seem unfair that people who built prior are using their property as seasonal, but that was before West Grey came together. We cannot overlook the importance of fire protection and legal responsibilities to provide safe access.

Mayor Eccles mentioned that about six years ago there was a severance granted for access on this roadway (at the edge of Highway 6) and part of the agreement was an upgrade of the road at the expense of the owner. He also noted that when any road upgrades are required as a result of a new development application, these upgrades are done at the expense of the proponent, and to set a new course here could be a dangerous precedent. Mayor Eccles also noted that some of the existing properties may have legal non-conforming use status. He further clarified that one of the lots subject to this application is currently land-locked and would not qualify for a building permit on its own, unless merged with the abutting lot.

The Clerk expressed concerns of how precedent setting this development could be. He further noted that it may add more pressure to fix roads and concerns

for future lawsuits.

Deputy Mayor Bell noted that there are some things we would like to happen but some we cannot based on safety concerns.

Councillor Hutchison noted he feels for the applicant's situation and hopes in the future something may be different but not at this time.

Bell-Thompson, Resolved that, the West Grey Committee of the Whole (Planning) hereby recommends West Grey Council refuses zoning bylaw amendment ZA-14-16;

And further that, the West Grey Committee of the Whole (Planning) hereby recommends that Council send a letter to the Grey County Planning & Development Department indicating they do not support the proposed Grey County Official Plan Amendment.

... #2-17

Carried.

The Committee of the Whole requested the proposed zoning by-law amendment to be placed on the February 6, 2017 Council agenda.

Mayor/Chair Eccles thanked everyone for coming and adjourned the public meeting at 2:42 p.m.

3) Other - None

5) Next Meeting – February 13, 2017, 1:30 p.m.

6) Adjournment

On motion of Doug Hutchinson, the Committee adjourned at 2:43 p.m.

(Signed)
Kevin Eccles, Mayor

(Signed)
Mark Turner, Clerk