

Severance Review

File No: B-116-21 Amended – REVISED (Revised Report)
Name: David and Debra Brown
Location: 400 Douro First Line
Part Lot 5, Concession 2 (Douro)
Roll No. 1522-010-002-05800

Recommendation:

That Planning-2023-27 Report, be received and that Peterborough County Land Division be advised that the Township of Douro-Dummer has revised their comments as they pertain to Severance Application B-116-21 Amended – REVISED; and that

Based on additional information received from OMAFRA and County of Peterborough Staff, the proposed severance does not appear to conform to Minimum Distance Separation (MDS) requirements; and that

Should the proposed severed lot be relocated outside of the MDS Arc, but within 120 metres of a key hydrologic feature, confirmation is required, to the satisfaction of the Township and County of Peterborough, that a 30 metre vegetation protection zone (VPZ) has been identified and that the proposed lot is located outside of the VPZ as required by Section 4.2.4 of the Growth Plan; and that

The revised location of the severed parcel be reviewed by the Manager of Public Works to ensure that a safe entrance is possible; and that

The amended Municipal Appraisal Form (MAF) dated August 24, 2023 attached to this Report be provided to Peterborough County Land Division.

Purpose of the application – Creation of two new residential lots.

Background:

At the June 6, 2023 Regular Meeting of Council, Staff presented Report Planning-2023-18 regarding Peterborough County Severance File B-116-21 Amended – REVISED. The minutes of the June 6, 2023 Meeting can be found at the following link: [Regular Council Meeting - June 06, 2023 \(escribemeetings.com\)](https://www.escribemeetings.com).

While there was an unresolved objection to the application from the owners of 369 Douro First Line, the Staff Report recommended the application based on the findings of the Clark Consulting Services (CCS) Addendum dated June 2, 2022. The CCS Addendum accepted the EcoVue suggestion that the existing livestock facility is capable of housing 45 beef cattle which generates an MDS I setback of 136 m. The proposed severed parcel is located 138 metres away from this livestock facility and based on

these calculations, the proposed lot appeared to comply with the MDS requirements in accordance with Section 1.1.5.8 of the PPS.

Additional information from the owners of 369 Douro First Line provided by the County of Peterborough after the writing of Report Planning-2023-18 and subsequent discussions with Staff from the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) and the County of Peterborough Planning Department have determined that the existing livestock facility located at 369 Douro First Line is capable of housing a maximum of 45 beef cattle and 5 medium frame horses. A copy of the AgriSuite MDS I Calculation is attached to this Report.

Based on the accepted design capacity in the attached MDS I calculation, the proposed severed lot must be setback a minimum of 145 metres from the 2720 ft² (253 m²) livestock facility located at 369 Douro First Line.

Since the severed lot is only setback 138 metres from this livestock facility, the proposed lot does not appear to comply with the MDS requirements in accordance with Section 1.1.5.8 of the PPS and therefore conflicts with Sections 6.2.2.3 (d), 6.2.2.5 (e), and 7.2.3 of the Official Plan.

Official Plan Designation:

Severed:	Rural
Retained:	Rural and Provincially Significant Wetland.

OP Conformity:

The severed parcel is designated Rural in the Local Component of the County Official Plan (the Township Official Plan).

Sections 6.2.2.3(d), 6.2.2.5(e) and 7.2.3 of the Official Plan require that new development shall only be established in accordance with the Minimum Distance Separation (MDS) requirements of the Provincial Policy Statement (PPS) in order to protect farm operations from encroachment and to allow for the future flexibility and expansion of existing farm operations. Based on additional information provided by the County of Peterborough and OMAFRA, the proposed severance does not appear to comply with the above noted sections of the Official Plan.

Zoning:		Rezoning Required:
Severed:	Rural (RU)	Yes
Retained:	Rural (RU) & Environmental Conservation Provincially Significant Wetland (EC(P))	No

Zoning Conformity:

The severed parcel is zoned Rural (RU) as identified on Schedule 'A1' to By-law No. 10-1996, as amended. A residential use is permitted in the (RU) Zone (S. 9.1.5) and requires a minimum lot area of 0.4 hectares and a minimum lot frontage of 45 metres (S. 9.2.4 (a) & (b)). The proposed severed parcel appears to meet these requirements. However, Section 3.23 of the By-law provides that no residential use, located on a separate lot shall be erected or altered unless it complies with the MDS formulae established by the Province, as amended from time to time. Since the severed lot does not meet the MDS I formula, a building permit could not be issued for the severed parcel.

In accordance with Section 8.2 of *The Minimum Distance Separation (MDS) Document, Publication 853*, OMAFRA does not generally support or encourage reductions to MDS setbacks, especially for new development. Allowing for reductions to MDS setbacks can increase the potential for land use conflicts and undermine the intent of this MDS Document. As such, Township Staff do not recommend a rezoning to reduce the MDS setback.

The retained parcel is zoned Rural (RU) and Environmental Conservation Provincially Significant Wetland (EC(P)) as identified on Schedule 'A1' to By-law No. 10-1996, as amended. An agricultural use or farm is permitted in the (RU) Zone (S. 9.1.1) and requires a minimum lot area of 20 hectares and a minimum lot frontage of 135 metres (S. 9.2.1 (a) & (b)). The retained parcel appears to meet these requirements.

PPS and Growth Plan Conformity:

Based on the accepted design capacity in the attached MDS I calculation, the proposed severed lot does not meet the minimum 145 metre setback from the 2720 ft² (253 m²) livestock facility located at 369 Douro First Line and therefore does not appear to comply with the MDS requirements in accordance with Section 1.1.5.8 of the PPS.

Comments:

Should Council accept the revised MDS findings, it is recommended that Staff be directed to provide an amended Municipal Appraisal Form (MAF) to the County of Peterborough. The amended MAF would indicate that the application does not conform to the Official Plan or the Zoning By-law and that the Township does not recommend the application or support a rezoning and/or minor variance. However, if the application is approved, the conditions requested in Report Planning-2023-18 are still required.

The Applicant has the option of amending the application to relocate the severed parcel outside of the MDS arc. For example, if the severed parcel was shifted approximately 44 metres south or a total of approximately 277 metres south of the Allowance between Lots 5 and 6, the severed parcel would be located outside of the MDS Arc. However, shifting the severed lot to the south by approximately 44 metres would place the

proposed severed lot within 120 metres of the non-evaluated wetland and seepage area to the south.

Similarly, the proposed lot could be relocated approximately 188 metres to the north or a total of approximately 93 metres south of the Allowance between Lots 5 and 6, and thus the severed parcel would be located outside of the MDS Arc. However, this would also place the proposed severed lot within 120 metres of the seepage area to the North.

Staff consulted with the Applicants, David and Debra Brown, who indicated they are amenable to shifting the severed lot to the south. Through their consultant, Bob Clark, CCS Consulting, the attached severance sketch was provided on August 24, 2023 which illustrates the proposed severance could be moved further south outside of the 145 metre MDS Arc. Mr. Clark indicated that both he and Chris Ellingwood [GHD] have seen this updated sketch and have agreed that it should be submitted to reflect the adjusted consent to address the increase in the MDS Separation Distance as agreed to by OMAFRA.

According to the attached sketch, the severed parcel is outside of the 145 metre MDS Arc and within 99 metres of the unevaluated wetland and 90 metres of the seepage area to the south.

Based on the findings of the October 10, 2022 GHD correspondence, "if the 120 m distance cannot be met as a result [of other factors such as MDS arc, minimum road frontage and minimum lot area], the following statements can be made.

1. The wetlands are located on low areas to the north and south and associated with drainage off of the rolling hills and drumlins.
2. The northern wetland is less than 2 hectares in size, at 0.5 acres.
3. The hill where the severance is proposed is well above the elevation of the wetlands and at the highest point on the property.
4. The field associated with the severance is active agricultural land and has limited ecological functions.
5. The creation of lot and the construction of a single family dwelling would not have a negative impact on the natural features or ecological functions of the southern or northern wetland.
6. No hydrological impacts from the proposed severance or dwelling construction are anticipated as the runoff from the top of this hill will continue to be downslope to the north and south."

The GHD Report was not peer reviewed by ORCA or the County's Peer Review Consultant since the severed lot was located outside of the 120 metre wetland setbacks and the proposal complied with the relevant sections of the legislation.

Planning Staff support the revised location and more regular shape of the severed parcel as presented by Mr. Clark.

Should the proposed severed lot be relocated outside of the MDS Arc, but within 120 metres of a key hydrologic feature, confirmation is required, to the satisfaction of the Township and County of Peterborough, that a 30 metre vegetation protection zone (VPZ) has been identified and that the proposed lot is located outside of the VPZ as required by Section 4.2.4 of the Growth Plan.

The revised location of the severed parcel be reviewed by the Manager of Public Works to ensure that a safe entrance is possible.

The revised location of the severed parcel would be located outside of the MDS Arc and would meet the minimum lot area and minimum lot frontage requirements for a residential use in the Rural Zone (S. 9.2.4 (a) & (b)).

These comments have been added to the MAF for consideration by Peterborough County Land Division.

A copy of the revised MAF is attached to this Report.

Report Approval Details

Document Title:	B-116-21 Amended - REVISED (Revised Report).docx
Attachments:	- B-116-21 AgriSuite J Brown MDS 1 (prepared by C. Coulter) (August 23, 2023).pdf - B-116-21 MAF (Amended).pdf - B-116-21 - 5034 Aug 24 Severance Sketch.pdf
Final Approval Date:	Aug 28, 2023

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

Martina Chait-Hartwig

Elana Arthurs