

## Staff Report

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<b>Report To:</b>	<b>Planning and Development Committee</b>		
<b>Date of Meeting:</b>	June 28, 2021	<b>Report Number:</b>	PDS-037-21
<b>Submitted By:</b>	Ryan Windle, Director of Planning and Development Services		
<b>Reviewed By:</b>	Andrew C. Allison, CAO	<b>Resolution#:</b>	
<b>File Number:</b>	ZBA2021-0003 & OPA2021-0002	<b>By-law Number:</b>	
<b>Report Subject:</b>	<b>Official Plan and Zoning By-law Amendment applications to facilitate the severance of a surplus farm dwelling</b>		

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### Recommendations:

1. That Report PDS-037-21 be received;
2. That the Municipality of Clarington has no objections to the approval of ROPA 2021-001
3. That Amendment No. 128 to the Clarington Official Plan as contained in Attachment 1 of Report PDS-037-21 be adopted;
4. That the By-law to amend Zoning By-law 84-63 attached to Report PDS-037-21, as Attachment 2, be approved;
5. That with regard to Heritage Designation of 40 Station Street, Orono:
  - (i) the draft updated Designation By-law (Attachment 3) be endorsed;
  - (ii) the enactment of the updated Designation By-law be required as a condition of approval of any future Land Division application on the subject lands; and
  - (iii) the Clerk be authorized to issue the required Notice under Part IV of the *Ontario Heritage Act* to initiate the process to amend the designation on the subject lands.
6. That all interested parties listed in Report PDS-037-21 and any delegations be advised of Council's decision.

## Report Overview

172596 Ontario Ltd. has submitted applications for an Official Plan Amendment and Zoning By-law Amendment to facilitate the severance of a surplus farm dwelling at 40 Station Street in Orono to accommodate a farm consolidation with non-abutting farmlands. The Clarington Official Plan Amendment would permit a farm parcel less than 40 hectares and a residential parcel slightly larger than 0.6 hectares. The Zoning By-law Amendment would prohibit future residential development on the retained parcel, prohibit the housing of livestock in the existing farm buildings as required by the Minimum Distance Separation (MDS) formulae and reduce the interior side yard setback from the proposed property line to two existing farm buildings.

The purpose of this report is to recommend that Council adopt the Clarington Official Plan Amendment, approve the Zoning By-law Amendment, and endorse the draft updated Heritage Designation By-law as contained in **Attachments 1 – 3** of Report PDS-037-21. Additionally, it is recommended that Council advise the Region of Durham Planning and Economic Development Department that they have no objection to the approval of the Regional Official Plan (ROPA 2021-001) required to accommodate the severance of a farm dwelling rendered surplus as a result of a non-abutting farm consolidation.

## 1. Application Details

1.1 Owner/Applicant: 172596 Ontario Ltd.

1.2 Agent: Clark Consulting Services

1.3 Proposal: **General**

To facilitate the severance of a surplus farm dwelling at 40 Station Street in Orono. The retained farm parcel would consolidate with non-abutting farmlands owned by 172596 Ontario Ltd. and Algoma Orchards Ltd.

### **Official Plan Amendment**

To permit a farm parcel less than 40 hectares and a residential parcel larger than 0.6 hectares. The retained farm parcel would be 35.18 hectares and the severed residential parcel would be 0.62 hectares.

### **Zoning By-law Amendment**

To prohibit future residential development on the retained farm parcel, prohibit the housing of livestock in the existing farm buildings as required by the Minimum Distance Separation (MDS) formulae

and reduce the southerly interior side yard setback for non-residential buildings existing prior to July 5, 2021 to 8.3 metres.

- 1.4 Area: 35.8 ha
- 1.5 Location: 40 Station Street, Orono (See Figure 1)
- 1.6 Roll Number: 181703005012401
- 1.7 Within the Built Boundary: No

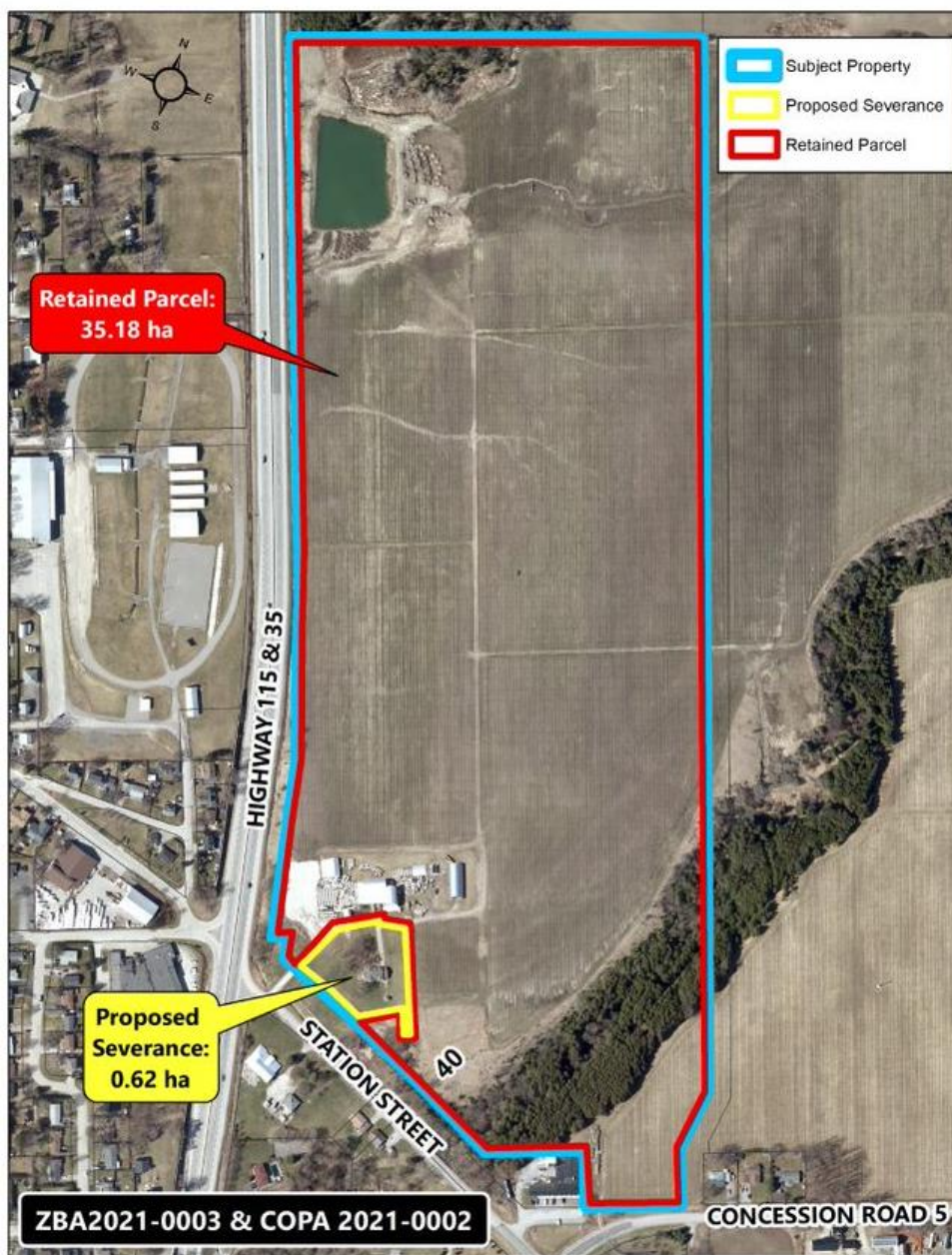


Figure 1 Proposed Severed and Retained Parcels

## 2. Background

- 2.1 On February 11, 2021, 172596 Ontario Ltd. submitted applications for an Official Plan Amendment and Zoning By-law Amendment to facilitate the severance of a surplus farm dwelling at 40 Station Street in Orono. An application for the associated Regional Official Plan Amendment (ROPA 2021-001) has been submitted to the Region of Durham.
- 2.2 The Regional Official Plan Amendment is required to permit the severance of a farm dwelling rendered surplus as a result of acquiring a non-abutting farm and severing the surplus dwelling. The Region of Durham's Planning and Economic Development Committee held a Public Meeting on June 1, 2021.
- 2.3 Should these applications be approved, a future Land Division would be required to permit the severance of a surplus farm dwelling. The applicant is proposing a shared driveway access. An easement would be required over the existing driveway in favour of the severed residential parcel as part of the Land Division application.
- 2.4 As part of a surplus farm dwelling severance, the Clarington Official Plan requires the retained farm parcel maintain a minimum of 40 hectares and the severed residential parcel a maximum of 0.6 hectares. An Official Plan Amendment was submitted to permit the retained farm parcel with an area of 35.18 hectares and the severed residential parcel with an area of 0.62 hectares. The retained parcel would consolidate with non-abutting farmlands owned by 172596 Ontario Ltd. and Algoma Orchards Ltd. (See Figure 2).
- 2.5 A Zoning By-law Amendment is required to prohibit future residential development on the retained parcel, prohibit the housing of livestock in the existing farm buildings as required by the Minimum Distance Separation (MDS) formulae and reduce the interior side yard setback from the proposed property line to two existing farm buildings.
- 2.6 The applicant has submitted the following reports in support of the applications:
  - Planning Justification Report prepared by Clark Consulting; and
  - Site Screening Questionnaire (SSQ) prepared by GHD

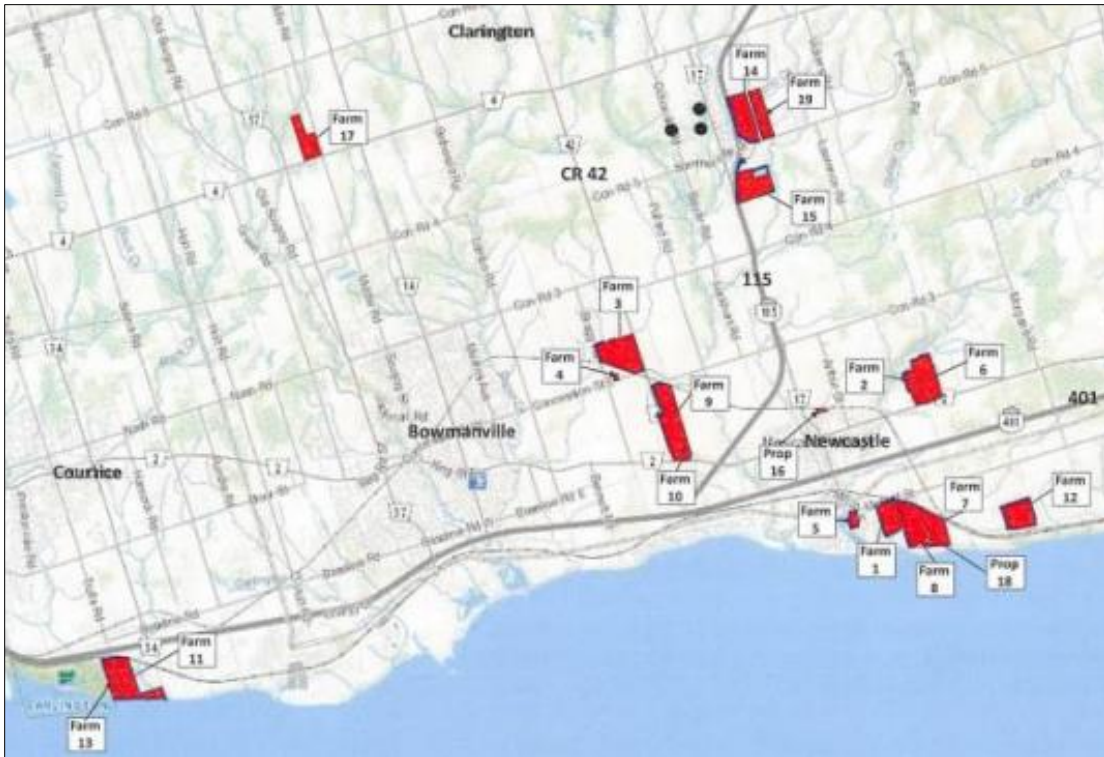


Figure 2: 172596 Ontario Ltd. and Algoma Orchards Ltd. Land Holdings

### 3. Land Use Characteristics and Surroundings Uses

- 3.1 The subject lands are 35.8 hectares in size with an existing detached dwelling on the southwest side of the property, fronting Station Street. There are five farm buildings also located on the southwest portion of the property. These buildings are used to store farm equipment. The residential dwelling and the farm buildings are accessed by a shared driveway. Most of the property is an apple orchard. Orono Creek traverses the southern portion of the property.
- 3.2 The detached dwelling on the property is on the Municipal Register as it is designated under the Part IV Ontario Heritage Act and is known as the John Cobbledick House. The detached dwelling was built in the 1860s.
- 3.3 The surrounding land uses are as follows:

North	Agricultural lands
South	Rural residential and agricultural lands
East	Agricultural lands
West	Highway 115/35 and Orono

## 4. Provincial Policy

### Provincial Policy Statement

- 4.1 The Provincial Policy Statement (PPS) protects prime agricultural areas for long-term agricultural uses. The PPS permits lot creation in prime agricultural areas for the severance of a surplus farm dwelling as a result of farm consolidation subject to the criteria outlined in Policy 2.3.4.1 (c).

### Greenbelt Plan

- 4.2 The policies of the Greenbelt Plan are intended to protect prime agricultural areas for long-term agricultural uses. Within the Protected Countryside designation of the Greenbelt Plan, lot creation is permitted for the severance of a surplus farm dwelling as a result of farm consolidation, provided that the surplus farm dwelling area is limited in size and no new residential dwellings are constructed on the retained parcel of farmland.
- 4.3 The southwest corner of the property is within the Natural Heritage System of the Greenbelt Plan. The proposed surplus farm dwelling severance does not propose any land use change or development in this area.

## 5. Official Plans

### Durham Regional Official Plan

- 5.1 The Durham Region Official Plan designates the subject property as “Prime Agricultural Areas.” Within Prime Agricultural Areas the severance of a farm dwelling rendered surplus as a result of a non-abutting farm consolidation is permitted by amendment to the Regional Official Plan.
- 5.2 The applicant has applied for a Regional Official Plan Amendment (ROPA 2021-001). The Region of Durham’s Planning and Economic Development Committee held a Public Meeting on June 1, 2021.

### Clarington Official Plan

- 5.3 The Clarington Official Plan designates the lands to be severed “Rural” and the retained lands “Prime Agricultural,” “Rural” and “Environmental Protection”. The severance of a farm dwelling rendered surplus as a result of the consolidation of non-abutting farms is permitted provided that the farm is a minimum of 40 hectares, the land area of the parcel on which the surplus dwelling would be located is a maximum of 0.6 hectares and that the farm parcel is rezoned to prohibit the establishment of any new residential uses.

- 5.4 The retained farm parcel would be 35.18 hectares in size and the surplus farm dwelling would be 0.62 hectares. The applicant has submitted an application for an amendment to the Clarington Official Plan for the farm parcel to be less than the minimum required 40 hectares and for the residential parcel to be more than the maximum 0.6 hectares.

## **6. Zoning By-law**

- 6.1 Zoning By-law 84-63 zones the subject property as Agricultural Exception (A-1) and Environmental Protection (EP). The 0.62-hectare residential parcel to be severed is entirely within the Agricultural Exception (A-1) Zone. The proposed Zoning By-law Amendment would prohibit future residential development on the retained parcel, prohibit the housing of livestock in the existing farm buildings as required by the Minimum Distance Separation (MDS) formulae and reduce the southerly interior side yard setback for non-residential buildings existing prior to July 5, 2021, to 8.3 metres.

## **7. Summary of Background Studies**

- 7.1 A Planning Justification Report prepared by Clark Consulting was submitted in support of the applications. The Report concludes that the applications to sever a surplus farm dwelling meet the objectives and requirements of the Provincial Policy Statement, Region of Durham Official Plan policies and the intent of the Clarington Official Plan policies. A total of 19 land holdings, including the subject lands, make up the 172596 Ontario Ltd. and Algoma Orchards Ltd. farming operation as shown on Figure 2.
- 7.2 An Addendum Report was submitted to acknowledge the heritage designation on the property.
- 7.3 The Report also addresses the Minimum Distance Separation formulae. The Report concludes that there is no livestock facility on the retained farm parcel and that the housing of livestock in the existing accessory farm structures should be prohibited. The Report indicates that the proposed applications comply with the MDS formulae guidelines.
- 7.4 A Site Screening Questionnaire was submitted by GHD. The Report concludes that the present land use at 40 Station Street has a low level of concern from an environmental assessment perspective and is suitable for the proposed severance. No further environmental assessment was recommended.

## **8. Public Notice**

- 8.1 Public notice was mailed to each landowner within 300 metres of the subject lands on April 1, 2021.
- 8.2 On April 6, 2021, public meeting signs were installed on the property, fronting Station Street, Highway 115/35 and Concession Road 5. A Public Meeting was held on April 26, 2021. There were no members of the public that spoke on the applications.

- 8.3 A notice of Recommendation Report scheduled for the Planning and Development Committee Meeting on June 28, 2021, was mailed to the interested parties on June 16, 2021.

## **9. Agency Comments**

### **Durham Region**

- 9.1 Durham Region Planning notes that the proposal is also the subject of an application to amend the Durham Region Official Plan. A decision has not been made on the Regional Official Plan Amendment. A Public Meeting was held on June 1, 2021. No one spoke in opposition to the applications.

### **Ministry of Transportation (MTO)**

- 9.2 The Ministry of Transportation has no concerns with the proposal. Any redevelopment would require MTO permits. The retained parcel is not permitted access to Highway 115/35. Access would only be permitted via Station Street.

### **Ganaraska Region Conservation Authority (GRCA)**

- 9.3 The Ganaraska Region Conservation Authority (GRCA) has no objection to the applications as the severed parcel does not fall within the GRCA's Regulation limits.

## **10. Departmental Comments**

- 10.1 The applications were circulated to the Infrastructure Division of Public Works and the Emergency and Fire Services Department. Neither department has concerns with the applications.

## **11. Discussion**

- 11.1 The Provincial Policy Statement (PPS) encourages the long-term viability of agricultural areas and limits opportunities to create new parcels in rural and agricultural areas. The PPS encourages farm consolidations and recognizes that farmers may not be interested in acting as landlords when acquiring additional farmland. The Durham Region and Clarington Official Plans allow farm consolidation where possible to ensure the long-term viability of agricultural operations. The Regional and Clarington Official Plans set out regulations for the severance of a surplus farm dwelling as a result of farm consolidation. When a surplus farm dwelling is severed, no new residential dwellings are permitted on the agricultural parcel.
- 11.2 The severance of a dwelling rendered surplus as a result of a non-abutting farm consolidation is permitted by amendment to the Regional Official Plan. The applicant has submitted a Regional Official Plan Amendment (ROPA 2021-001) to allow for a surplus farm dwelling severance as a result of non-abutting farm consolidation.



- 11.3 The Clarington Official Plan policies require that when a surplus farm dwelling is severed from a farm parcel that is non-abutting, the farm parcel must have a minimum lot area of 40 hectares. The purpose of this policy is to ensure that the lands are viable for a farm operation upon severing. In this case, the existing farm parcel is considered smaller than a typical agricultural parcel, as it is 35.8 hectares, however the subject lands have been successfully farmed as an apple orchard. The Official Plan also requires that the severed surplus dwelling be a maximum of 0.6 hectares. The application proposes an amendment to the Clarington Official Plan to permit a 35.18-hectare farm parcel to and a 0.62-hectare residential parcel.
- 11.4 When a surplus farm dwelling is severed, the Regional and Clarington Official Plans in conformity with Provincial policy, require that the retained farm parcel be rezoned to prohibit future residential development. The 0.62 hectare residential parcel to be severed is entirely within the Agricultural Exception (A-1) Zone. The application for a Zoning By-law Amendment would prohibit future residential development on the retained farm parcel, prohibit the housing of livestock in the existing farm buildings as required by the Minimum Distance Separation (MDS) formulae and reduce the interior side yard setback from the proposed property line to two existing farm buildings. Two farm buildings would require a reduction in the interior side yard setback. The southerly side yard setback requirement would be reduced from 15 metres to 8.3 metres. The reduction is to accommodate two existing structure and, in Staff's opinion would not result in any negative impacts.
- 11.5 The subject property is on the Municipal Register as it is designated under Part IV of the *Ontario Heritage Act* by By-law 90-22. Generally, development on or adjacent to a cultural heritage resource may be permitted where the proposed development has been evaluated through a Heritage Impact Assessment and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.
- 11.6 The Clarington Heritage Committee (CHC) was consulted on the subject applications at its April 20, 2021, meeting. The CHC recommended the current Designation By-law 90-22 be updated to address the contextual significance of the proposed severed lands, including the position of the dwelling on the hill, and the driveway access that winds to avoid crossing in front of the dwelling. An amendment to the By-law 90-22 would also be required to update the legal description to reflect the extent of the future severed lands. The draft designation by-law (**Attachment 3**) was informed by an 'Evaluation of 40 Station Street According to Ontario Regulation 9/06 (criteria for establishing cultural heritage value or interest)', prepared by Archaeological Research Associates Ltd., and presented to the CHC on June 15<sup>th</sup>. The CHC and Staff recommend the enactment of the updated Designation By-law be required, pursuant to the requirements of the *Ontario Heritage Act*, as a condition of approval of any subsequent Land Division application to sever the designated heritage dwelling to ensure the continued conservation of this cultural heritage resource.

## 12. Concurrence

Not Applicable.

## 13. Conclusion

It is respectfully recommended that Council: adopt the amendment to the Clarington Official Plan (see **Attachment 1**), approve the amendment to Zoning By-law 84-63 (See **Attachment 2**), endorse the draft updated Designation By-law (See **Attachment 3**) and advise the Region of Durham that the Municipality of Clarington has no objection to the approval of ROPA 2021-001.

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Staff Contact: Toni Rubino, Planner, (905) 623-3379 ext. 2431 or trubino@clarington.net.

Attachments:

Attachment 1 – Official Plan Amendment  
Attachment 2 – Zoning By-law Amendment  
Attachment 3 – Draft Updated Designation By-law

Interested Parties:

The following interested parties will be notified of Council's decision:

172596 Ontario Ltd.  
Bob Clark, Clark Consulting