

<b>Date:</b>	<b>June 10, 2020 – Special Council Meeting</b>
<b>Subject:</b>	<b>Zoning By-Law Amendment Application ZBA-08-20 Jim Fisher, Scotch Line Road, Part of Lot 3, Concession 4, Geographic Township of Oxford-on-Rideau, now Municipality of North Grenville</b>
<b>Attachments:</b>	<b>Appendix 1: Location Plan Appendix 2: Conceptual Site Plan Appendix 3: Recommended Zoning Provisions</b>

## **RECOMMENDATION**

The following recommendation is provided for Council's consideration:

**That Council approve Zoning By-Law Amendment Application ZBA-08-20 for the lands legally described as Part of Lot 3, Concession 4, Geographic Township of Oxford-on-Rideau to amend the zoning of the property from Rural (RU) to Rural – Special Exception Holding (RU-XX-h) to reduce the minimum required setback from a principle railway from 100 metres to 21 metres and to reduce the minimum required front yard setback from 12 metres to 9.14 metres and to require a site plan agreement to be entered into satisfactory to the Municipality.**

## **BACKGROUND**

Three existing lots are located on the south side of Scotch Line Road, just east of Bolton Road. The lots back onto the Canadian Pacific Railway, which is a principal rail way line. (**Appendix 1**). The properties are currently undeveloped, with a proposal for a single family dwelling on each lot (**Appendix 2**). The lots range in size from approximately 3,237 square metres (0.8 Acres) to 4,000 square metres (1 acre).

## **DISCUSSION**

This application has been circulated to all persons and agencies prescribed by the *Planning Act* regulations. At the time this report was written, the Municipality had received comments from Rideau Valley Conservation and an e-mail with concerns about the impact of drainage onto his property should these lots be developed (**Appendix 3**).

## **ANALYSIS**

### **Provincial Policy Statement**

The new Provincial Policy Statement 2020 (PPS), which came into effect on May 1<sup>st</sup>, 2020, provides overarching policies for growth and development in Ontario. On rural lands, residential development is permitted (Section 1.1.5.2(c)). The PPS further encourages development to be compatible with the rural landscape that can be sustained by rural service levels (Section 1.1.5.4).

It is the opinion of staff that the development of these lots for rural residential uses is supported by the Provincial Policy Statement

### **United Counties of Leeds and Grenville Official Plan**

The site is designated as Rural Lands pursuant to Schedule A of the Counties' Official Plan. Rural Lands (3.3) are intended to promote limited development that is compatible with the rural landscape and character that can be sustained by rural services. Furthermore, the United Counties' Official Plan permits limited residential development (Section 3.3.2(iii)).

It is the opinion of Staff that the proposed single family dwellings fit the rural landscape and character of North Grenville and can be supported by rural services.

### **North Grenville Official Plan**

Pursuant to Schedule B of the Official Plan of the Municipality of North Grenville, the site is designated Rural Lands. The Rural Lands designation (Section 4) permits low-density development (4.2(a)) where it is appropriate.

Section 12.4 of the Official Plan requires that the Municipality consider any potential noise problem in determining the appropriateness of the proposed development in relation to a railway, which could be considered a major source of noise.

It is the opinion of Staff that the proposed single family dwellings constitutes low-density development and is appropriate for the rural designation. A site plan control agreement will be entered into to address noise attenuation measures from the railway.

### **Comprehensive Zoning By-Law 50-12**

The site is currently zoned "Rural" (RU) pursuant to Schedule A-3 of the Municipality's Comprehensive Zoning By-Law 50-12. The Rural zone (9.1) permits a single family dwelling as a permitted use, as well as buildings, structures and uses accessory to a permitted use. The proposed primary use of the property is residential.

Section 6.40.1[d] states that *no development shall be permitted within 50 metres (164 feet) of a secondary railway line or 100 metres (98 feet) of a principle railway line; however, this setback does not apply to industrial or agricultural uses.*

The proposed development is seeking to be setback 21 metres from the principle railway line for the Canadian Pacific Railway. Previous to Zoning By-Law 50-12, the Zoning By-Law for the former Township of Oxford on Rideau, By-Law 11-85, only specified that *no buildings or structures be erected within the site triangle established by measuring from the point of intersection of the centerline of the road and the railway right-of-way, 45 metres along the centerline of the road and 215 metres along the centre line of the railway right of way.*

Previous zoning requirements before the Comprehensive Zoning By-Law came into effect would not have restricted the development of these lots.

Section 9.2 of Comprehensive Zoning By-Law 50-12 requires a minimum front yard setback of 12 metres. The applicant is proposing to reduce the minimum required front yard setback for the lot located at the intersection of Bolton Road and Scotch Line Road. As is demonstrated in the site plans, this lot has a smaller depth compared to the other two lots. The applicant is requesting to reduce the front yard setback for this lot from 12 metres to 9.14 metres to accommodate a consistent setback from the railway line for all three properties.

A site plan agreement will be required to address the development on the property, including appropriate sound attenuation measures, such as berms and fencing, the requirement for air conditioning units to reduce the noise impact and registration of a notice on title advising of the possible disruption of lifestyle due to proximity to the active railway line.

There are existing single family dwellings along Scotch Line Road that back onto the railway with varying setback distances that do not meet the 100 metre setback requirement as stated in Section 6.40.1(d). A variance was granted last year on Bolton Road to reduce the minimum required setback from 100 metres to 61 metres (File A-04-20).

Canadian Pacific Railway and the Railway Association of Canada, through their proximity guidelines, recommend a setback of 30 metres from a principle railway line. However, the guidelines encourage municipalities to establish their own setback provisions through their local Zoning By-laws. The proposed reduction from 100 metres to 21 metres still falls short of the general guidelines as recommended by the Canadian Pacific Railway and the Railway Association of Canada. The applicant attempted to solicit feedback from Canadian Pacific Railway prior to applying. The Railway deferred the applicant to the Municipality as the approval authority for development. Additionally Canadian Pacific Railway was circulated on the notice of public meeting regarding this application. No comments were received.

## **PUBLIC CONSULTATION**

The Municipality received an e-mail from the neighbouring property owner to the east with concerns over the impact of drainage onto his property. The concern with the development of the lots pertains to the fact that bedrock is located close to the surface,

meaning significant fill would be required on the lot to support a septic system. At this time the proposed development on the lot would be for a slab on grade construction.

A holding will be placed on the property to require a site plan agreement to address site conditions. The site plan agreement is intended to address the attenuation features required to reduce the noise impact from the railway, such as the construction of a berm/fencing, and the requirement for central air to be installed.

Drainage can also be addressed at the site plan stage. The application is proposing that the new single family dwelling to be set back approximately 150 feet from the eastern property line shared with the neighbouring property owner. Under the *Drainage Act*, one property owner cannot negatively impact their drainage onto a neighbouring property.

A property owner on Bolton Road e-mailed their concerns about the lots being undersized for development. The lots range in size from 0.8 acres to 1 acre in size. There are examples of other lots within the area that are developed on similar sized properties. The applicant is seeking to reduce the minimum required separation distance from 100 metres to 21 metres from a principle railway. Prior to the Comprehensive Zoning By-Law coming into force and effect in 2012, these lots would have been able to develop without the need for a variance. The Site Plan Agreement will be implemented to reduce the impacts from the railway, including sound attenuation measures. An appropriate building envelope will be established to reduce any adverse impacts from the railway.

## **CONCLUSIONS**

It is the opinion of Staff that the Zoning By-Law Amendment to amend the zoning for the three lots on Scotch Line Road from Rural (RU) zone to the Rural - Special Exception Holding (RU-XX-h) zone to a permit the development of a single detached dwelling on each lot constitutes good land use planning.

## **Recommendation:**

It is the recommendation of staff that Council **approve** Zoning By-Law Amendment ZBA-08-20 to amend the zoning on the properties from Rural (RU) zone to Rural - Special Exception Holding (RU-XX-h).

## **ALTERNATIVES**

1. Council could refuse an amendment to Zoning By-law No. 50-12 to change the zoning from Rural (RU) zone to Rural - Special Exception Holding (RU-XX-h). This alternative is not recommended as the land use policies applicable to the subject property are supportive of rural residential development on existing lots of record within the residential designation, and the proposed Zoning By-law amendment is in keeping with the intent of the zoning provisions and land use designation.

## **FINANCIAL/STAFFING IMPLICATIONS**

This item has been identified in the current budget: Yes ☐ No ☐ N/A **X**

This item is within the budgeted amount: Yes ☐ No ☐ N/A **X**

Staffing implications, as they relate to implementing Council's decision on this matter, are limited to the existing staff complement and applicable administrative policies as approved by Council.

## **LINK TO COUNCIL WORK PLAN**

The proposed Zoning By-law amendment aligns with the principle of development that builds community connection through a common vision and alignment of community development, economic development and planning goals.

**Prepared by:**

**Reviewed and  
submitted by:**

**Reviewed and submitted  
for Council  
Consideration by:**

Original Signed By

Original Signed By

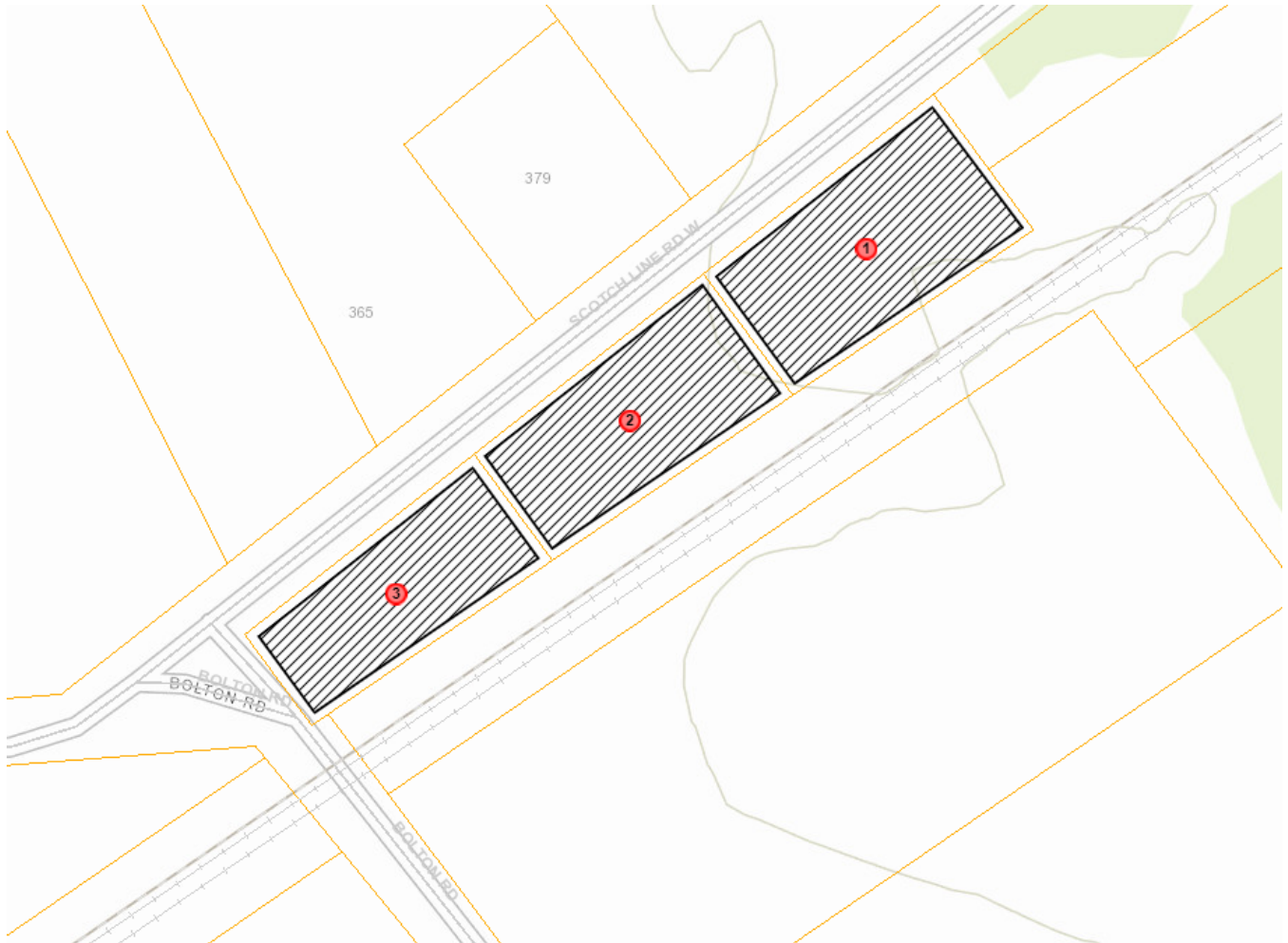
Original Signed By

\_\_\_\_\_  
**Amy Martin  
Senior Planner**

\_\_\_\_\_  
**Philip Gerrard  
Director of Planning  
& Development**

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**Gary Dyke  
CAO**

**LOCATION PLAN**



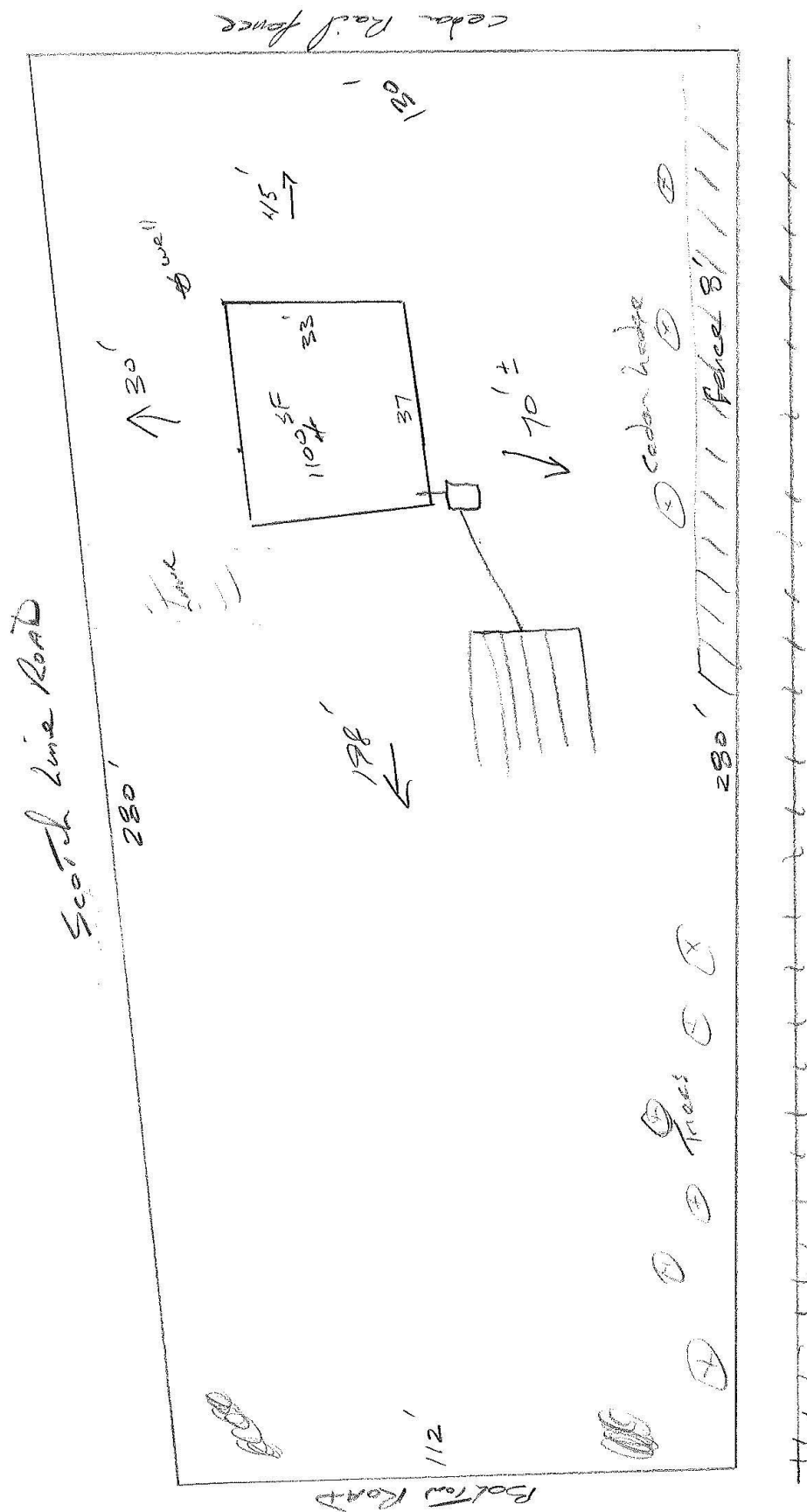
**Subject Lands:**



**Concession 4, Part of Lot 3, former Township of Oxford-on-Rideau,  
now Municipality of North Grenville**

**Appendix #2**  
PD-015-2020

Roll # 071971601017402 (corner lot)

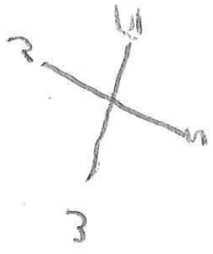


0719716010174000





Roll #  
 071971601017407  
 (middle lot)



## Recommended Zoning Provisions

The proposed changes to Comprehensive Zoning By-law 50-12 for the three lots on Scotch Line Road:

1. Schedule A-2 is to be amended by rezoning Area A, as shown on Appendix 1, from RU-XX-h.
2. Amend Section 9.4 by adding the following new clause to Subsection 13.4.1 (Residential First Density Special Exception Zones) as follows:

XX) RU-XX-h

- i. Notwithstanding the Provisions of Subsection 9.2 on the contrary, the following setbacks shall apply:

### **Front Yard Setback – 9.14 metres**

- ii. Notwithstanding the Provisions of Subsection 6.40(d), on the contrary, the minimum required setback from a principle railway shall be 21 metres.
- iii. Notwithstanding the provisions of Section 9.1 hereof to the contrary, on the lands zoned RU-XX-h, only those uses existing at the date of passage of this by-law shall be permitted. The holding symbol -h is hereby implemented and shall only be removed in accordance with the applicable sections of the *Planning Act*, provided that the following items are addressed:
  - Execution of a site plan control agreement satisfactory to the Municipality.