



Planning Report

To: Arran-Elderslie Council

From: Megan Stansfield, Planner

Date: April 5, 2023

Re: Zoning By-Law Amendment Z-2022-127 (Thorn)

Recommendation:

That Council receive this report, which summarizes the project and public comments received thus far, and hold a Public Meeting for the purpose of hearing representations from proponents and the public; and

That staff review comments and matters arising from the public meeting and return to a subsequent meeting with a recommendation.

Summary:

The application proposes to establish definitions in the Municipality's Zoning Bylaw for a 'micro-cultivation facility' and 'micro-processing cannabis facility' and to permit these uses on the subject lands with limits on the size of the use. The application also proposes a holding provision on a portion of the lands with high archaeological potential. If approved, the proposed amendment would facilitate the construction and operation of a Micro Cultivation and Micro Processing Cannabis Facility on the subject lands, under a licence to be obtained from Health Canada.

The proposed building is approximately 469 square metres in size with a grow surface of up to 200 square metres. The building will be completely enclosed, with a single exterior window, and an air filtration system that prevents odour escaping the building.

The lands are located at 46 Bruce Road 17, in the village of Tara/Invermay, Arran-Elderslie.

The Notice of Complete Application was posted at the site and circulated to those within 120 metres of the property on January 30, 2023, as per Planning Act requirements.

The Notice of Public Meeting Notice was posted at the site and circulated to those within 120 metres of the property, as well as others who requested the Notice, on March 13, 2023, as per Planning Act requirements.

Airphoto



Image of Proposed Development (rendering)



Planning Analysis:

The following section provides an overview of the planning considerations that were factored into the staff recommendation for this application, including relevant agency comments (attached), public comments (attached) and planning policy sections.

Zoning

The property is zoned R1- Residential: Low Density Single, and A1 - General Agriculture. The proposed building to house the Micro Cultivation and Micro Processing Cannabis Facility will be located within the Agriculture zone. The agriculture zone permits agricultural activities, specifically defined in the Zoning By-Law as:

'AGRICULTURAL GENERAL' means the growing of crops, including nursery and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures.

The proposed use of a Micro Cultivation and Micro Processing Cannabis Facility is not specifically listed or defined in the zoning by-law, and as such, the applicants require a zoning by-law amendment. The proposed amendment includes the definition of a Micro Cultivation and Micro Processing Cannabis Facility and the site specific use.

Official Plan Designation

The Residential portion of the property is within the Urban Area of Tara/Invermay, and designated as Residential in the Arran-Elderslie Official Plan. The agriculture portion of the property is outside the Urban Area of the Local Official Plan, and is designated Rural in the Bruce County Official Plan. The role of the Official Plan is an overarching framework to establish a vision for the County which outlines goals, objectives and policies which help to dictate land use planning decisions. The use is evaluated relative to the criteria of the plan. The Rural Designation permits Agriculture Uses and Agriculture related uses as defined below.

Agriculture uses, as defined by the Provincial Policy Statement including agriculture, aquaculture, apiaries, agro-forestry, associated on-farm buildings and structures, growing

of crops for biomass, maple syrup production, the growing of plants for food production, nurseries, the primary and secondary farm residence, and temporary farm accommodation for workers.

Agriculture related uses, as defined by the Provincial Policy Statement, including commercial or industrial uses that are directly related to the processing of agricultural products produced on the same property or providing products or services to farm operations in the area, in accordance with the policies of Section 5.5.9, and retail stands for the sale of agricultural products produced on the farm unit upon which the retail stand is to be located.

Considerations

Through the pre-consultation process planning staff identified key considerations to the applicants regarding their proposal, namely, odour, lighting, security and traffic. These issues were addressed in the Planning Justification Report provided by the applicant's planner. The major concerns noted, are summarized below; please refer to the Planning Justification Report for details on these considerations.

Federal Regulations and Requirements

A license from Health Canada is required for the Micro Cultivation and Micro Processing Cannabis Facility. Health Canada has specific regulations and requirements the owners must meet to obtain and maintain a license. Health Canada has the authority to conduct inspections and enforce any Regulations that are not met. A license may not be granted unless appropriate zoning is in effect.

Odour

Cannabis has a distinct odour that can impact surrounding sensitive uses and needs to be considered when evaluating the suitability of the location of the proposal. The proposed building will be completely enclosed and will be equipped with activated carbon filters on the air handling units which exhaust air outside. The air circulating the facility is also passed through a unit with filters to reduce any odours. In addition, the report notes that no open cannabis will be handled in an area that contains an exterior door. Prior to obtaining a license from Health Canada, it must be demonstrated that sufficient odour controls are in place. Health Canada states that it takes odour complaints seriously, and during inspections ensures that the facility is meeting odour control requirements. It is also noted that there may still be odours from indoor production, even when an air filtration system is in place, but the air filtration does limit odour intensity and frequency.

Lighting

Typically, there is concern when the facility is a greenhouse, where lights must be on when daylight is insufficient which can contribute to light pollution and general displeasure from those in the surrounding area. The proposed facility in Tara is completely enclosed - the only

window being one for the office. As such lighting associated with cultivation is not a concern. External, motion-activated lighting is proposed for security purposes.

Security

Health Canada has specific requirements regarding security of the facility, and plans are required to be submitted to Health Canada prior to obtaining a license for the facility.

Traffic

The Planning Justification Report notes that occasional shipments of materials will occur, with the bulk of materials being delivered at the beginning of operation start-up and processed goods are shipped approximately every 3 months. Subsequent correspondence indicates approximately 6 shipments out of the facility per year. Operational staff reside on site.

Municipal Regulatory Approaches for Agro-Industrial Use

Cannabis production can be argued to be both an agricultural and an industrial use. By nature, it is an agricultural crop and requires the standard inputs of any plant. Conversely, the proposed form cannabis production can also be considered an industrial use. The indoor facility requires artificial lights, temperature control, etc. and the associated planning concerns (lights, odours, security) are similar to those of industrial developments. Bruce County has other cannabis production facilities, mainly located within industrial zones. The Municipality of Arran-Elderslie Zoning By-Law has setbacks for industrial uses in the specific industrial zones and requires that an interior sideyard setback from a Residential area be 10 metres.

Legal Cannabis production is a relatively new use, and regulatory approaches are emerging. A 2021 report for the City of Niagara Falls, by SGL Planning and Design, summarized the setback requirements to sensitive land uses or zones, for cannabis facilities that have been established in a number of jurisdictions. Some municipalities differentiate between proposals within an industrial or agricultural zone, while others differentiate between indoor facilities equipped with an air filtration system (proposed here) and facilities without odour filtration.

For municipalities that specify a zone (agricultural) and the use of air filtration, setbacks from a sensitive land use range from 100 metres to 150 metres.

The proposal at 46 Bruce Road 17 is approximately 40 metres from the edge of the residential zone, about 50 metres from the edge of a sensitive use (cemetery), and the closest dwelling (the applicants) is about 150 metres away.

Another 2021 report by WSP for the Township of Springwater reviewed similar issues related to cannabis production in surrounding municipalities. Additionally, it reviewed the policies and frameworks in place relative to Springwater to assist council in the creation of a by-law.

The report detailed planning tools used in several municipalities to address common concerns with cannabis production - many created a definition and further applied site-specific requirements.

Provincially, a recent case was decided by the Ontario Land Tribunal (OLT) in respect of the Township of Oro-Medonte's Zoning By-Law amendment that would regulate Cannabis production and processing facilities in the Township. The OLT found that the zoning by-law was not consistent with the PPS 2020 because it removed the growing of a specific crop, which does not promote or protect agricultural uses, as required in the PPS. The same case also notes that requiring a separation distance from a sensitive use, is inconsistent with the PPS, as the PPS requires the protection of Prime Agricultural Areas and all types of agriculture.

Staff note that provincially defined Minimum Distance Separation guidelines apply relative to livestock facilities and manure storage facilities and sensitive uses, and that the proposed development is designated 'Rural' in the County Official Plan.

Public Comments

Through the public notice process, neighbours and residents of the surrounding area have expressed further concerns for the development. At the time of writing this report, County and Municipal staff have received 26 public comments opposing this application.

A summary of the public concerns and the applicant's response are listed in the table below. The full comments provided by the public are appended to this report, in addition to the Planning Justification Report provided by the applicant's planner.



Public Concern	Explanation	Applicant Comments
Security Concerns and Crime	The community has concerns regarding increased crime in the area. Concerns of guns being used due to increased security presence were mentioned in a few comments, while others were just generally concerned with increased potential for crime	Applicant Comment: The proposed business is committed to running a secure compliant facility. The site has been designed to prevent any un-authorized access and intrusion via a solid structure, physical barriers, and restricted access controls. Visual surveillance for access and exit points into the site is achieved using interior and exterior cameras. Access control is being managed via keylock systems and card readers organized in several layers to only allow authorized staff entry into the operations areas. There will be no guns involved in the security process.
Operating Hours		Applicant Comment: operating hours would be from either 8 am to 4 pm or 9 am to 5 pm.
Property taxes/home values	Commenters are concerned that the proposed development will impact the value of their homes	Applicant Comment: Based on the investment on the current house and proposed new building which is similar to other buildings in the area, the difference being this will be a new building that would blend into the property. This indoor facility will not show any indication of being a small craft cannabis business
Environmental Concerns/ Fertilizers/chemicals in the	Concerns that fertilizers and chemicals will get into the water.	Applicant Comment: The operation is Health Canada regulated and would not allow the use of damaging chemicals. Health Canada has a very high bar on how one would operate which is a good thing for this industry. There

water/proximity to the river		would be no runoff in any event that would impact well water or the river.
Odours	Commenters noted the odours produced by cannabis. Many likened the proposed facility to the 7 Acres facility in Tiverton, and many noted that this would compound the odour from the Lallemand Yeast Plant	<p>Applicant Comment: As per Section 81 of the Cannabis Regulations, any facility where cannabis is produced, packaged, labelled, stored, or tested must be equipped with a ventilation system which ensures the prevention of the escape of cannabis odours to the outdoors. The proposed site is designed in a manner where all exhaust points are controlled for odours. The heating, ventilation, and air conditioning (HVAC) system is equipped with a series of high-performing activated carbon (also known as activated charcoal) filters which are the gold standard for achieving odour mitigation in cannabis facilities. The Strict Operational Practices (SOP's) at the facility, dictated by Health Canada-approved SOP's, will also ensure the prevention of odour release to surrounding areas. Open cannabis will not be handled in areas that contain an exterior door. All areas that contain an exterior door must only contain cannabis that is vacuum sealed and stored in sealed containers in order to prevent odour release. Odour controls, as directed by Section 81 of the Cannabis Regulations, are a strict requirement from Health Canada and every licence applicant must demonstrate sufficient odour mitigation strategies using carbon filtration and airflow prior to being awarded a licence. Upon licensing, the enforcement of odour control requirements is carried out by Health Canada's Compliance and Enforcement Officers during regular on-site inspections of cannabis licence holders. During inspections, licence holders must demonstrate the continued functionality of odour controls at</p>

		their site and must also present their approved facility maintenance schedule and maintenance logs to demonstrate that the odour control features at the site are regularly maintained and are continually operational.
Noise	Concerns for noise generated by fans and generators	Applicant Comment: The business is family owned and operated and must follow Health Canada rules and regulations. This operation will be considered a small craft business with no automation, just the use of our hands to plant, grow, harvest, and package.
Increased Traffic	Concerns of increased traffic	Applicant Comment: The proposed operation will have less traffic than any other business in the area, or even residences. Aside from initial order of supplies there would be potentially 6 shipments out to the province annually which would require a small vehicle footprint of a typical rented U-Haul.
Lighting	Concerns for light pollution and lights being constantly on, "green lights" coming from the building	Applicant Comment: The proposed facility is a completely self-contained production site which does not produce any exterior light pollution other than the light generated from general office lighting from the single exterior window. Exterior lighting will be limited to motion-sensitive spot lighting on the building envelope near entry and exit points which would activate only in the proximity of an individual approaching an exterior door
'Eye sore'	Concerns of chain link fence/ "prison-like" look due to security fencing	Applicant Comment: The proposed new building will blend in as any other building in the surrounding area. This is not a business that requires security fencing around the perimeter as the building will be secured similar to most businesses in the area.

Greenhouse	Concerns related to a greenhouse building	Planner Comment: The proposed facility is completely enclosed, with only one window in the office.
Close to church/cemetery	Church hosts weddings, Food Bank, Alcoholics Anonymous and also public concern surrounding the stigma of having a cannabis facility near a church	Applicant Comment: The goal is to invest in the property, house and proposed new building that the community would have no issues with. The family plans to be part of the community and help in such good causes as the food bank. Based on the small scale of the operations there would be no impact to the historical cemetery.
Expansion	One commenter noted concerns that the project would expand to the use of a greenhouse or other facilities once approval was given	Planner Comment: The By-Law specifically limits the space to the 470 square metre building. Expansion would require an additional Planning Act Application.
Water Use	Concerns of extensive water usage, depleting surrounding wells/ affecting water table	Applicant Comment: The water use and runoff would be similar to someone running a flower nursery. Planner Comment: The facility is regulated by Health Canada. Extraction of water in excess of 50,000l/day requires a Permit to Take Water from the Ministry of Environment, Conservation and Parks.
Public Notification Process	A couple commenters noted their displeasure at the lack of, or late notification for this proposal	Planner Comment: Notice timelines are established under the Planning Act. Notices were issued with more time than required by the Act.

Residential Area/Sensitive use	Commenters reiterated that this is largely a residential area, and they feel that the proposed development is in too close proximity to the residential area	Planner Comment: see discussion above.
Retail sale concerns	Public concerns that a retail store will be established on the property	<p>Applicant Comment: All sales will occur via 4-6 deliveries per year to OCS (Ontario Cannabis Stores) DC in Guelph. The provincial government controls the distribution to the 1,700 plus retail stores in Ontario.</p> <p>Planner Comment: A retail store is not proposed, and not permitted in the proposed zoning by-law amendment. A retail store would require an additional zoning by-law amendment.</p>
Drainage and run off	Concerns that the proposed building will cause drainage and run off issues	<p>Applicant Comment: The water use and runoff would be similar to someone running a flower nursery. We have been working with an engineering group (MTE) that will be providing a grading and drainage design. This design does not allow any water to runoff into other people's property or the Sauble River.</p> <p>Planner Comment: Drainage and lot grading is addressed through the building permit stage. The Chief Building Official reviews and approves the final plans. The Grey Sauble Conservation Authority has been circulated on this proposal and noted no objections to the proposed development.</p>
General stigma		Applicant Comment: Aside from the current communication the objective is that it would not be apparent that there is a

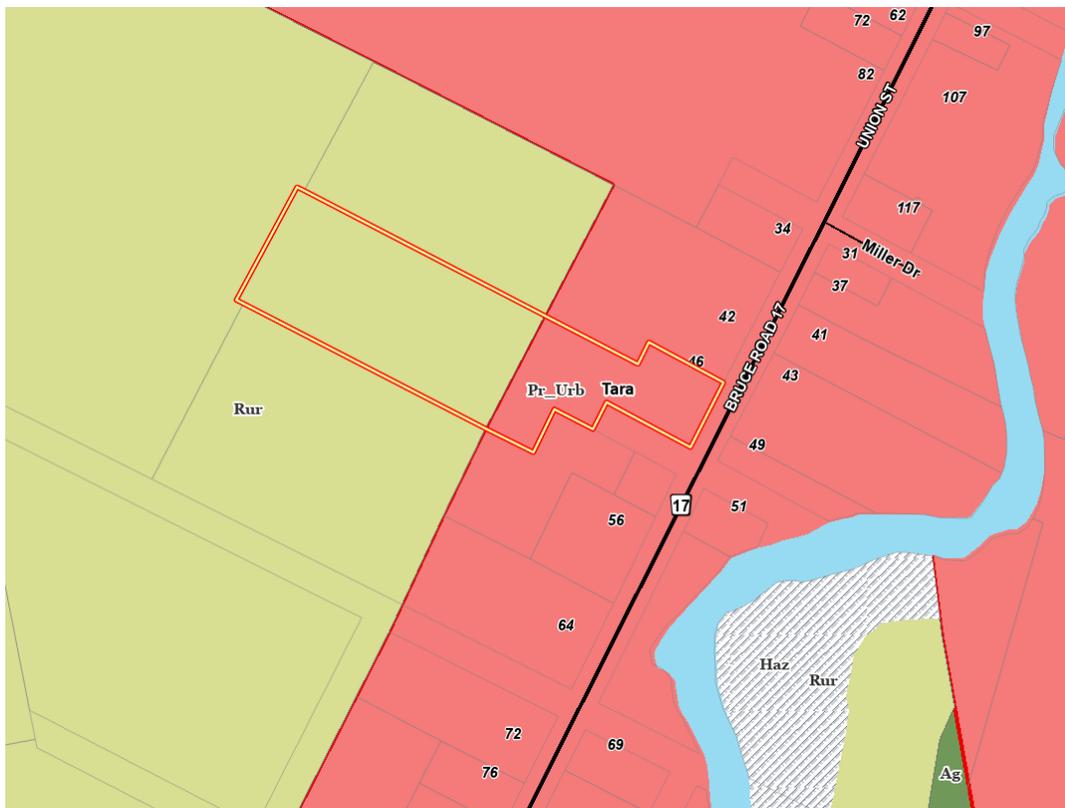
		<u>LEGAL & Health Canada regulated</u> small craft micro-operations.
Economics	A few comments noted that no, or few jobs were being created and that this doesn't benefit the community economically	Applicant Comment: The proposed Micro Cultivation and Micro Processing Facility will promote local economic development initiatives and prosperity in the County by broadening the range of business activity. The proposed use will strengthen the agricultural community as a viable and vital component of the County's economy, while at the same time recognize and promote the rural area as an important community and economic resource.
Children walking past the facility to go to school/daycare		Applicant Comment: The investment on the house and proposed new building should reflect a residential owner who cares about the land and property. The building would show similarly to any of the neighbouring company buildings, being fully enclosed & secured.
Health Risks	Concerns of health risks due to the odour in the air, specifically: Hypersensitivity pneumonia, allergic rhinitis, asthma patients having more reaction, mold spores in air causing respiratory infections	Planner Comment: In an evidence brief on "Odours from cannabis production", by Public Health Ontario, it was stated that there was no scientific literature identifying health effects associated with exposure to cannabis odours. The production of cannabis is highly regulated by Health Canada.
Cemetery	Concerns of unmarked graves in the vicinity	Planner Comment: As part of the planning process, the applicants have been asked to complete an Archaeological Assessment. Their archaeologist will need to consult with Saugeen Ojibway Nation (SON), who will oversee the assessment.



Appendices

- County Official Plan Map
- Local Official Plan Map
- Local Zoning Map
- List of Supporting Documents and Studies
- Agency Comments
- Public Comments
- Public Notice

County Official Plan Map (Designated Primary Urban Communities & Rural)



Local Official Plan Map (Designated Residential and Institutional & Community Facility)



Local Zoning Map (Zoned R1 - Residential: Low Density Single & A1 - General Agriculture)



List of Supporting Documents

- Planning Justification Report
- Lighting Letter

References:

Health Canada. May 2022. Cannabis Odours and Odour Control. Link: <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/industry-licensees-applicants/cannabis-odours-control.html>

Public Health Ontario, April 2018. Evidence Brief: Odours from Cannabis Production. Link: https://www.publichealthontario.ca/-/media/Documents/E/2018/eb-cannabis-production-odours.pdf?rev=dd4efc937211468392cdc427ff3e8e13&sc_lang=en

Ontario Land Tribunal Hearing. 2023. Township of Oro-Medonte. Link: <https://www.canlii.org/en/on/onlt/doc/2023/2023canlii5427/2023canlii5427.html?searchUrlHash=AAAAAQAIY2FubmFiaXMAAAABABBSU08gMTk5MCwgYyBQLjEzAAAAQAOLzM3NS1jdXJyZW50LTEB&resultIndex=2>

SGL Planning and Design. May 2021. City of Niagara Falls: Cannabis Growing Facilities, Land Use Review. Link: <https://niagarafalls.civicweb.net/document/36020/PBD-2021-23,%20Attachment%20-%20Cannabis%20Growing%20Facilit.pdf?handle=30313C5EAFB04F7ABC9ED1933597FFB4>

WSP. March 2021. Springwater Cannabis Production Review Study. Link: <https://www.springwater.ca/en/business-and-development/resources/Documents/Cannabis-Production-Review-Study.pdf>

Agency Comments

Arran Elderslie Public Works: No comments

Grey Sauble Conservation Authority: No objections, provided in full below

Source Water: No policies apply to the activities identified. Portion of the property is located in the Wellhead Protection Area E for the Tara Drinking Water System, which requires a Risk Management Plan for storage and/or application of pathogens (agricultural source material)

Saugeen Ojibway Nation: Archaeological Assessment is required

Bruce County Transportation: No comment



County of Bruce
Planning & Development Department
268 Berford Street, PO Box 129
Warton, ON N0H 2T0
brucecounty.on.ca
226-909-5515



January 30, 2023

File Number: Z-2022-127

Notice of Complete Application

A change is proposed in your neighbourhood: The purpose of the application is to establish definitions in the Municipality's Zoning Bylaw for a 'micro-cultivation facility' and 'micro-processing cannabis facility'. The application seeks to permit these uses on the subject lands and to place limits on its scale operation. The application also proposes a holding provision on a portion of the lands with high archaeological potential. If approved, the proposed amendment would facilitate the construction and operation of a Micro Cultivation and Micro Processing Cannabis Facility on the subject lands, under a licence to be obtained from Health Canada.

A public meeting will be scheduled at a later date and another notice will be sent out advising of the date of this meeting.



46 Bruce Road 17
CON 7 PT LOTS 29 AND;30 PLAN 15 LOT 41 PT LOT 42;RP 3R7363 PARTS 1 AND 2(Arran)
Municipality of Arran-Elderslie
Roll Number 410349000315402

Learn more

You can view limited information about the application at <https://brucecounty.on.ca/living/land-use>. Additional information, including the supporting materials, can be provided upon request by emailing bcplwi@brucecounty.on.ca or calling 226-909-5515. Information can also be viewed in person at the County of Bruce Planning Office noted above, between 8:30 a.m. and 4:30 p.m. (Monday to Friday).

The Planner on the file is: Megan Stansfield

Have your say

Comments and opinions submitted on these matters, including the originator's name and address, become part of the public record, may be viewed by the general public and may be published in a Planning Report and Council Agenda.

1. Please contact us by mail (address above) or (hub email) if you have any questions, concerns or objections about the application.
2. You can participate in the Public Meeting (when it is scheduled)

Stay in the loop

If you'd like to be notified of the decision of the approval authority on the proposed application), you must make a written request to the Bruce County Planning Department.

Know your rights

Section 34(11) of the [Planning Act](#) outlines rights of appeal for Zoning By-law Amendment applications.

If a person or public body would otherwise have an ability to appeal the decision of the Council of the Municipality of Arran-Elderslie to the Ontario Land Tribunal but the person or public body does not make oral submissions at a public meeting or make written submissions to the Municipality of Arran-Elderslie before the by-law is passed, the person or public body is not entitled to appeal the decision.

If a person or public body does not make oral submissions at a public meeting, or make written submissions to the Municipality of Arran-Elderslie before the by-law is passed, the person or public body may not be added as a party to the hearing of an appeal before the Ontario Land Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

For more information please visit the Ontario Land Tribunal website at <https://olt.gov.on.ca/appeals-process/>.



County of Bruce
Planning & Development Department
268 Berford Street, PO Box 129
Warton, ON N0H 2T0
brucecounty.on.ca
226-909-5515



March 13, 2023

File Number: Z-2022-127

Public Meeting Notice

**You're invited to participate in a Public Meeting
to consider Zoning By-Law Amendment File No. Z-2022-127
April 5, 2023 at 5:30 pm**

A change is proposed in your neighbourhood: The purpose of the application is to establish definitions in the Municipality's Zoning Bylaw for a 'micro-cultivation facility' and 'micro-processing cannabis facility'. The application seeks to permit these uses on the subject lands and to place limits on its scale operation. The application also proposes a holding provision on a portion of the lands with high archaeological potential. If approved, the proposed amendment would facilitate the construction and operation of a Micro Cultivation and Micro Processing Cannabis Facility on the subject lands, under a licence to be obtained from Health Canada.



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The Planner on the file is: Megan Stansfield

Have your say

Comments and opinions submitted on these matters, including the originator's name and address, become part of the public record, may be viewed by the general public and may be published in a Planning Report and Council Agenda. Comments received after March 27, 2023 may not be included in the Planning Report but will be considered if received prior to a decision being made, and included in the official record on file.

Please contact us by email at bcplwi@brucecounty.on.ca, mail, or phone (226-909-5515) if you have any questions, concerns or objections about the application.

How to access the public meeting

The public meeting will be held in person, in the municipal Council Chambers located at 1925 Bruce Road 10, Chesley, ON, N0H 1L0. Seating may be limited and you may be required to wait outside until called upon to speak. As an alternative, you may submit written comments to the Bruce County Planning Department which will be considered at the meeting.

Please contact Clerk Christine Fraser-McDonald at cfraser@arran-elderslie.ca or 519-363-3039, ext. 101 if you have any questions regarding how to participate in the meeting.

Stay in the loop

If you'd like to be notified of the decision of the approval authority on the proposed application(s), you must make a written request to the Bruce County Planning Department.

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For more information please visit the Ontario Land Tribunal website at <https://olt.gov.on.ca/appeals-process/>.

