

Municipality of Chatham-Kent

Development Services

Planning Services

To: Mayor and Members of Council

From: Anthony Jas
Manager, Development, Planning Services

Date: May 27, 2024

Subject: Applications for Consent & Zoning By-law Amendment
PL202400058 – Olive Mary Cross
19699 Erieau Road, Community of Harwich (South Kent)

Recommendations

It is recommended that:

1. Consent application File B-25/24 to sever a surplus dwelling (19699 Erieau Road) and three (3) outbuildings, on a new 1.03 ha (2.54 ac.) lot, shown as Part 1 on the applicant's sketch, attached as Appendix C, in Part of Lot 11, Concession 3, in the Community of Harwich, be approved, subject to the following conditions:
 - a) that the Chatham-Kent Zoning By-law be amended to:
 - i) rezone the residential surplus dwelling lot to a site-specific Agricultural-1173 (A1-1173) Zone that permits a surplus dwelling on a lot greater than 0.8 ha (1.98 ac.); and,
 - ii) rezone the retained parcel to a site-specific Agricultural-1720 (A1-1720) Zone to prohibit future dwellings and recognize the reduction in lot area from 20 ha (49.4 ac.) to 9.35 ha (23.11 ac.),
 - b) that the applicant pay \$100 for the cost associated with the apportionment of assessment under the Drainage Act related to the subject lands;
 - c) that the severed and retained parcel be transferred to Neil Wammes Farms Ltd., as outlined in the Agreement of Purchase & Sale, dated January 16, 2024;
 - d) that a new drain crossing over the Allison Drain be installed on the retained parcel, to the satisfaction of the Municipality;

- e) that the applicant demonstrate the septic system on the severed parcel is functioning in accordance with Municipal Protocol;
 - f) that a hard copy and AutoCAD.dwg version of the final reference plan projected to the NAD 83/UTM Zone 17N coordinate system be submitted to the Municipality; and,
 - g) that the necessary deed(s), transfer or charges be submitted in triplicate; signed and fully executed (no photo copies). It will be necessary to allow up to three (3) working days after all conditions have been fulfilled and documentation filed for the issuance of the Certificate (stamping of deeds).
2. Zoning By-law Amendment application File D-14 HA/14/24/C be approved and the implementing by-law be adopted.

Background

The subject property is located on the east side of Erieau Road, between Allison Line and Talbot Trail, in the Community of Harwich (Roll No. 3650 140 008 77100). The lands are approximately 10.38 ha (25.65 ac.) in area and contain a single detached dwelling, three (3) outbuildings, and pastureland. The subject property is designated Agricultural Area in the Chatham-Kent Official Plan and zoned Agricultural (A1). A key map showing the location of the subject property is attached as Appendix A. Pictures showing the subject property and surrounding area are attached as Appendix B.

The proposal is to sever and convey a 1.03 ha (2.54 ac.) residential surplus dwelling lot, shown as Part 1 on the applicant's sketch, attached as Appendix C. The surplus dwelling lot will contain the existing dwelling, outbuildings, and associated pastureland. It will also include the existing landscaped area surrounding the dwelling. The retained farm parcel will be approximately 9.35 ha (23.11 ac.) in area and will continue to be farmed.

To implement the proposed Consent, a Zoning By-law Amendment is required to:

- i) rezone the severed parcel to a site specific Agricultural-1173 (A1-1173) Zone to permit a surplus dwelling on a lot size greater than 0.8 ha (1.98 ac.); and,
- ii) rezone the retained parcel to a site specific Agricultural-1720 (A1-1720) Zone to prohibit future dwellings and recognize the reduction in lot area from 20 ha (49.4 ac.) to 9.35 ha (23.11 ac.).

It has been verified that the prospective purchaser of the subject lands owns additional acreage in the area (19624 Erieau Road, Community of Harwich), which renders the dwelling on the subject property surplus to the needs of this farming operation.

Comments

Provincial Policy Statement (PPS)

The proposed surplus dwelling severance is consistent with Section 2.3.4.1(c) of the PPS and does not raise any issues of provincial interest.

Official Plan

The proposed surplus dwelling severance has been reviewed under the policies of the Chatham-Kent Official Plan. It has been specifically reviewed under Section 3.10 Agricultural Area Policies, and Section 6.3.3 Planning Tools (Consent and Zoning By-law) and meets the intent of these policies.

The proposed surplus dwelling severance is consistent with Section 3.10.2.18.2(b) of the Official Plan. The proposed severed lot is of sufficient area to accommodate the existing dwelling, accessory structures, and private septic system. The proposed severed parcel will also include pastureland associated with one of the outbuildings.

There is no shared drainage over these lands. Both the severed and retained parcels will maintain sufficient frontage along Erieau Road, with the severed parcel retaining the existing access. The retained parcel will have the ability to install a new culvert entrance from Erieau Road in the future if one is needed. At this time, the retained farm parcel will have access through abutting lands.

As a condition of the severance, a new drain crossing is required to be installed over the Allison Drain to service the retained lands. The Allison Drain bisects the interior of the retained parcel. It has also been verified that there are no local improvement charges associated with the subject property.

Zoning By-law

To implement the proposed Consent, a Zoning By-law Amendment is required to provide relief from the Chatham-Kent Zoning By-law No. 216-2009, as amended, to:

- i. rezone the severed parcel to a site specific Agricultural-1173 (A1-1173) Zone to permit a surplus dwelling on a lot size greater than 0.8 ha (1.98 ac.); and,
- ii. rezone the retained parcel to a site specific Agricultural-1720 (A1-1720) Zone to prohibit future dwellings and recognize the reduction in lot area from 20 ha (49.4 ac.) to 9.35 ha (23.11 ac.).

The Chatham-Kent Zoning By-law contains provisions under the Agricultural (A1) Zone that are specific to a surplus dwelling severance. These provisions include permitting a single detached dwelling on a lot created as a result of Consent with an area of 0.8 ha (1.98 ac.) or less. These provisions also prohibit any future dwelling on the remnant parcel.

As described above, the proposed severance will create a new 1.03 ha (2.54 ac.) residential surplus dwelling lot, which is greater than the 0.8 ha (1.98 ac.) lot permitted by the A1 Zone. The proposed severed parcel follows the existing line of cultivation surrounding the single-detached dwelling located at 19699 Erieau Road. It also encompasses the existing outbuildings, and associated pastureland. The rear yard of the proposed severed parcel also follows an open municipal drain that bisects the farm property. Therefore, a Zoning By-law Amendment is required to implement the surplus dwelling severance by rezoning the severed lot to a site-specific Agricultural-1173 (A1-1173) Zone that recognizes the increased lot area of the severed parcel.

Additionally, the retained parcel is an existing undersized agricultural parcel, being 10.38 ha (25.65 ac.) in area, where 20 ha (49.4 ac.) is required. The resulting lot area of the retained farm will be 9.35 ha (23.11 ac.). Given this, it is required that the retained parcel be rezoned to a site-specific Agricultural-1720 (A1-1720) Zone to recognize the resulting reduction in lot area. The anticipated reduction in lot area is to facilitate the proposed surplus dwelling severance, and will result in no loss of currently cultivated farmland. It has been demonstrated through existing practices that the current cultivated area is a viable farm parcel, and the reduction in lot area will not hinder this.

Lastly, to implement the direction of the Provincial Policy Statement and Official Plan, the Zoning By-law Amendment will also rezone the retained parcel to prohibit any future dwelling on these lands.

All other applicable zoning regulations are being met by this proposal.

Council Term Priorities

This report supports the following Council Term Priorities:

			
<p>Deliver Excellent Service</p>	<p>Promote Safety & Well-Being</p>	<p>Grow Our Community</p>	<p>Ensure Environmental Sustainability</p>

Consultation

Chatham-Kent Drainage Services

Drainage Services was consulted on the requirement for a new drain crossing over the Allison Drain and have no concerns with the Recommendations. Drainage also confirmed that full costs associated with the new drain crossing will be the obligation of the applicant. The applicant has been in contact with Drainage Services and understands the requirements/process for implementing a new drain crossing.

Public Works

Public Works has reviewed this proposal and indicated that there would be no issue for implementation of a new entrance from Erieau Road to service the retained parcel, and that an Entrance Permit would be required at that time. As indicated above, the prospective purchaser of the subject lands owns the abutting farm parcel to the south (PIN No. 0094-00286), which will allow for access from Erieau Road for the retained parcel at this time.

Communication

Information on Council's action will be posted to the municipal website. All persons who have made a submission regarding this application will receive a notice of Council's decision. Any other person who wishes to receive notice must submit a written request to the Clerk.

Diversity, Equity, Inclusion and Justice (DEIJ)

This report does not have implications related to diversity, equity, inclusion or justice.

Financial Implications

There are no financial implications resulting from the recommendations.

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Attachments: Appendix A – Key Map
Appendix B – Site Photos
Appendix C – Applicant's Sketch
By-law to amend By-law 216-2009

Appendix A – Key Map



Appendix B – Site Photos



Looking east at the dwelling known as 19699 Erieau Road.



Looking east at a portion of the proposed retained farmland.

Appendix C – Applicant's Sketch

