



Meeting Date: May 18, 2022

Submitted by: Dan FitzGerald MPI MCIP RPP, Planner

Report No: PLA-36-2022

Subject: Consent Application (B-6/2022); 15025 Eight Mile Road

Recommendation:

THAT Consent Application B-6/2021, filed by Ben Waghorn on behalf of Julie Armitage, Richard Armitage, and Amanda Armitage, in order to sever a portion of land to accommodate a public utility from an existing farm, with an approximate frontage of 26.5 metres (86.9 feet) on Highbury Ave North (County Road 23), and an area of approximately 609.6 square metres (0.15 acres), and the retained a frontage of approximately 576.7 metres (1892 feet) on Eight Mile Road, and an area of approximately 100.75 acres (40.77 hectares), from a lot legally described as Part of Lot 9, Concession 7 North, in the Municipality of Middlesex Centre, County of Middlesex, and municipally known as 15205 Eight Mile Road, be GRANTED.

AND THAT Consent B-06/2022 be subject to the following conditions:

1. That the Certificate of Consent under Section 53(42) of the *Planning Act* shall be given within one year of the date of the notice of the decision. The request for the Certificate of Consent shall be accompanied by a written submission that details how each of the conditions of severance has been met.
2. That the fee for the Certificate of Consent be paid in accordance with the Municipality's Fees and Charges By-law.
3. That a draft reference plan be prepared by an Ontario Land Surveyor for the purposes of facilitating the transaction of Consent B-6/2022 and that this plan be approved by the Municipality prior to being deposited with the Land Registry Office.
4. That the Owner's solicitor provide a Transfer in Preparation to the Municipality, together with a deposited reference plan and a Schedule describing the land to be transferred, for the purposes of the issuance of a Certificate of Consent.

5. That the Owner's solicitor submit an undertaking in a form satisfactory to the Municipality to register an electronic transfer of title consistent with the Consent decision.
6. That the lands be transferred in ownership to Quadro Communications for the purposes of installing a public utility.
7. That any outstanding property taxes for the severed and retained lots of Consent B-6/2021 be paid in full.
8. That, if necessary a revised assessment schedule in accordance with the Drainage Act, as amended, be commissioned and paid for by the Owner.
9. That the severed land requires its own entrance, address and any laneway connecting the retained and severed land shall be altered in such a way that one cannot travel from one parcel of land to the other.
10. That the Owner be required to dedicate lands along County Road 23 (Highbury Ave North) of up to 18 metres from centreline for the entire frontage facing said road, to the satisfaction of the County of Middlesex Engineer.
11. That the applicant apply for and successfully receive a minor variance to confirm compliance with zoning provisions for the proposed lot frontage and area.

AND FURTHER THAT the reasons for granting Consent Application B-6/2022 include:

- The proposal is consistent with the Provincial Policy Statement;
- The proposal conforms to the County of Middlesex Official Plan and the Middlesex Centre Official Plan; and
- Subject to the conditions, the proposal would comply with the Middlesex Centre Comprehensive Zoning By-law.

Purpose:

The purpose of this report is to provide Council with a recommendation in regards to an application for a proposed severances to accommodate a public utility from a farm that is located on the south side of Eight Mile Road, on the south west side of the intersection at Eight Mile Road and Highbury Ave North.

A location map is included as Attachment 1.

Background:

The purpose and effect of Consent Application B-6/2022 is to create a new lot for the purpose of constructing a public utility in the format of a switch building for Quadro Communications. The severed lot is proposed to have a frontage of approximately 26.5 metres (86.9 feet) on Highbury Ave N (County Road 23), with an area of approximately 609.6 square metres (0.15 acres). The retained parcel would maintain a frontage of approximately 576.69 metres (1,892 feet) on Eight Mile Road, with an area of 100.76 square metres (40.7 hectares).

As a whole, the property currently contains a single detached dwelling, various barns and livestock buildings, and agricultural lands in crop production. The property is surrounded by agricultural lands in crop production as well as existing commercial uses on the corner of Eight Mile Road and Highbury Road North. The lands are partially regulated by the Upper Thames River Conservation Authority (UTRCA).

A sketch of the proposal is included as Attachment 2.

Policy Regulation:

The subject land is designated 'Agricultural Area' according to the County of Middlesex Official Plan and 'Agriculture' by the Middlesex Centre Official Plan. The land is split zoned 'Agricultural' (A1) Zone and Highway Commercial (C2) Zone by Middlesex Centre's Comprehensive Zoning By-law.

Provincial Policy Statement (PPS)

According to Section 3 of the Planning Act, as amended, decisions made by planning authorities "shall be consistent with" the PPS. The principal policies of the PPS that are applicable to the proposed development include:

Section 1.7.1 I) of the PPS encouraging efficient and coordinated communications and telecommunications infrastructure.

County of Middlesex Official Plan:

The principal policies of the County of Middlesex's Official Plan that are applicable to the proposed development include:

Section 2.3.4 of the Plan indicates that the County shall cooperate with local municipalities, the business community and other agencies to ensure that employment centres are served by modern infrastructure systems including road, rail, and telecommunications networks.

Section 2.4.3.1 notes that the County shall:

- a) Cooperate with local municipalities, the business community and other agencies to establish high quality electronic communication networks including fibre optics, and telecommunications;
- b) Ensure all communication corridors and transmission facilities are constructed, either above ground or underground to minimize the physical, visual and social impacts on the community and natural environment;
- d) Ensure facilities are located to avoid the Natural System, where possible, and minimize the impact on Agricultural Areas. Where facilities must be located in these areas, consideration shall be given to the environmental implications associated with the development;
- f) Encourage construction of facilities to be timed to minimize crop losses;

Middlesex Centre's Official Plan

The principal policies of Middlesex Centre's Official Plan that are applicable to the proposed development include:

Section 9.4.5 subsection c) notes that the Municipality will participate with other agencies in the planning of future transmission routes, easements, and utility services, and their integration with the established or anticipated pattern of development.

Consultation:

Notice of the application has been circulated to agencies, as well as property owners in accordance to the requirements of the Planning Act.

Public Comments:

At the time of writing the subject report, no comments or concerns had been received from the public regarding this proposal.

Agency Comments:

The following comments were received at the time of writing this report;

Upper Thames River Conservation Authority has indicated that the lands are partially regulated and that the proposed severance does not serve to fragment the hazard lands and therefore does not have a natural hazard or natural heritage concern with the requested severance.

Hydro One has stated that they do not have any comments or concerns with the application.

Middlesex County Engineering has reviewed the application and notes that a dedication is required of 18 metres from centre line of County Road 23 for the entire frontage facing the road, if it is not already to that width.

Analysis:

The Provincial Policy Statement (PPS), County Official Plan and Municipality's Official Plan generally permit lot creation that supports the installation of public utility and services corridors.

Staff have reviewed the request to sever the requested 609.6 square metre parcel of land from the existing agricultural parcel of land. The intention of the severance in this case is specifically for the installation of a public utility to support the installation of broadband internet services.

Middlesex County Council and Middlesex Centre Council, through the adoption of the respective strategic plans, have identified the expansion and access to broadband internet a strategic priority.

Middlesex Centre's Zoning By-law notes that public utilities are a permitted use in all zones. However the resulting zoning provisions are required to be met. In this case, the applicant will be required to apply for and successfully receive a minor variance in order to meet the Highway Commercial (C2) Zone minimum lot size requirements. This is also applicable for the future setbacks of development on the lands. The reason for the variances is to strategically reduce the size of the lands to limit their impact on the agricultural lands. Additionally, the remnant farm land would still meet the minimum 40 hectare lot size requirement and as such, would not require any additional planning approvals.

Planning staff is satisfied that the criteria for the severance of a strategic utility corridor have been met or can be appropriately addressed via conditions of consent.

Given the above, planning staff are recommending that the subject application be approved, subject to conditions.

This opinion is provided prior to the public meeting and without the benefit of potentially receiving all comments from agencies or members of the public. Should new information arise regarding this proposal prior to or at the public meeting, Council is advised to take such information into account when considering the application.

Financial Implications:

None.

Strategic Plan:

This matter aligns with following strategic priorities:

- Vibrant Local Economy

This Planning Report relates to Objective 3.1 – Support Middlesex County’s efforts to secure provincial and federal funding for broadband internet service expansion throughout Middlesex Centre by promoting the installation of such services and infrastructure within the Municipality.

Attachments:

1. Location Map
2. Proposed Severance Sketch