



Meeting Date: June 15, 2022

Submitted by: Marion-Frances Cabral, Planner

Report No: PLA-40-2022

Subject: Applications for Official Plan Amendment (OPA 58) and Zoning By-law Amendment (ZBA-02-2022), filed by SBM Limited on behalf of Robert and Margaret Robinson

Recommendation:

THAT the Official Plan Amendment No. 58, filed by SBM Limited on behalf of Robert and Margaret Robinson, for the land legally described as Concession 4 N Pt Lot 6 and known as 10163 Gold Creek Drive (former Township of Lobo), Municipality of Middlesex Centre, be ADOPTED and forwarded to the County of Middlesex for consideration of approval;

AND THAT the Zoning By-law Amendment application, as amended, filed by SBM Limited on behalf of Robert and Margaret Robinson, to rezone the subject land from the 'Agricultural (A1)' zone to the site-specific 'Agricultural (A1-37)' zone for the land legally described as Concession 4 N Pt Lot 6 and known as 10163 Gold Creek Drive (former Township of Lobo), Municipality of Middlesex Centre, be APPROVED.

Purpose:

The purpose of this report is to provide Council with a recommendation regarding an Official Plan Amendment and Zoning By-law Amendment for a property located at 10163 Gold Creek Drive, on the south side of Gold Creek Drive and east of Komoka Road. The property is legally described as Concession 4 N Pt Lot 6 (former Township of Lobo).

The applications request site-specific amendments to permit an additional residential unit within an accessory structure.

A location map is included as Attachment 1 and the revised site plan is included as Attachment 2.

Background:

The purpose and effect of the Official Plan Amendment application is to re-designate the subject land from the Agricultural designation to an Agricultural Special Policy Area designation to allow an additional residential unit in an accessory building.

The purpose and effect of the Zoning By-law Amendment application is to rezone the subject land from the Agricultural (A1) zone to a new site-specific Agricultural (A1-37) zone to permit an additional residential unit within an accessory building. The accessory structure is an existing building with an area of 84.2 m² (906.3 ft²) and was constructed in 2019 on a wheeled platform without a foundation. The accessory structure is located on the western portion of the land within a cluster of buildings that includes a saddlery and workshop. The accessory structure is located approximately 345 m (1,132 ft.) from the primary single detached dwelling. The applicants intend to remove the wheeled platform and have the accessory structure placed on a permanent foundation once it is considered a permitted use. An individual septic system and well were constructed to service the structure in its current location on the land. The proposed additional residential unit will use the existing gravel access from Gold Creek Drive.

The subject land is approximately 41.2 ha (101.8 ac) in area and has 603.7 m (1,980.6 ft.) of frontage on Gold Creek Drive. The land is primarily used for agricultural uses (cash crop farming and three agricultural buildings), contains two artificially created lakes, and six buildings accessory to the residential use. The land contains regulated area along the northern frontage of the land and Significant Woodland on the southern portion of the land.

Policy Regulation:

Planning Act

Section 16(3) of the Planning Act authorizes Official Plans to contain policies that permit additional residential units and provides the following:

“An official plan shall contain policies that authorize the use of additional residential units by authorizing,

- a) the use of two residential units in a detached house, semi-detached house, or rowhouse; and
- b) the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse.”

Additionally, Section 35.1 requires that council of each local municipality to pass by-laws under section 34 (Zoning by-laws) to give effect to the policies described in subsection 16(3).

Provincial Policy Statement, 2020:

Section 3 of the Planning Act requires all decisions made under the Act “to be consistent with” the Provincial Policy Statement, 2020 (PPS). The following PPS policies are relevant to the proposed development and need to be considered when evaluating the subject applications.

Section 1.1.1 of the PPS speaks to ‘Healthy, liveable and safe communities’ and how they can be sustained. Section 1.1.1b) states that ‘accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including

places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs’.

Section 1.4 of the PPS speaks to ‘Housing’ and the requirement ‘to provide for an appropriate range and mix of housing options and densities required to meet projected requirements of current and future residents of the regional market area’.

Section 1.6.6 of the PPS outlines the hierarchy for sewage and water services. Generally, the preferred method of servicing is municipal services, however consideration can be given to private and communal services where appropriate, and where supported by appropriate studies.

Section 2.3 of the PPS speaks to prime agricultural areas and the long-term protection of these areas for agricultural use. Permitted uses within prime agricultural areas include: agricultural uses, agricultural-related uses, and on-farm diversified uses. Policy 2.3.6 of the PPS addresses non-agricultural uses in prime agricultural areas. The PPS directs that limited non-residential uses may be permitted within a prime agricultural area subject to evaluation criteria.

Middlesex County’s Official Plan

The County of Middlesex Official Plan designates the subject land as Agricultural Area. The County Plan recognizes agriculture as the predominant land use and an economic mainstay within the County. The Agricultural policies are intended to protect agricultural lands from the intrusion of land uses that are not compatible with agricultural operations.

Section 4.3 of Middlesex County’s Official Plan speaks to local Official Plans and indicates that the County Official Plan is not intended to prevent the development of areas designated for non-agricultural development in local Official Plans. The County Plan does not specifically address a proposal such as this. Instead, the County Plan leaves atypical proposals to be addressed within local Plans and through the local Official Plan Amendment process.

Section 2.3.7 of the County of Middlesex Official Plan speaks to housing policies and states that, it is the policy of the County to encourage a wide variety of housing by type, size and tenure to meet projected demographic and market requirements of current and future residents of the County.

The County of Middlesex’s Official Plan in section 2.4.5 discusses the servicing hierarchy similar to those discussed in the PPS.

Middlesex Centre’s Official Plan

As mentioned the subject land is designated ‘Agricultural’ by Middlesex Centre’s Official Plan. The designation of the subject lands permits primarily agricultural uses and residences surplus to a farming operation.

Section 5.2.1 of Middlesex Centre’s Official Plan speaks to General Residential Policies, section 5.2.1 a) states, The Municipality will provide and encourage a wide variety of housing types, sizes and tenures to meet demographic and market requirements for the Municipality’s current and future residents’.

Section 9.3 of the Local Official Plan speaks to municipal infrastructure and servicing policies. These policies have a similar hierarchy as the PPS and the County Official Plan. As it relates to this proposal section 9.3.2 a) states, 'the principle means of sewage disposal in agricultural areas of the Municipality is the septic tank and weeping tile system. It is anticipated that such systems will continue to be the principal means of sewage disposal outside of settlements in the foreseeable future, however the consideration of alternative and improved technologies is encouraged.

Section 9.6.1 of Middlesex Centre's Official Plan states it is policy of this Plan that the conversion of an existing principal farm dwelling to add an additional residential unit may be permitted, subject to the requirements within the existing building, and will not require an addition to facilitate the conversion.

Section 9.7 of the Municipality's Official Plan states that 'new garden suites will not be permitted within the Municipality. Garden Suites are temporary housing on a property and above the primary residence.

In Section 10.1 of the Official Plan it is noted that the Plan may be amended upon consideration of all relevant issues relating to the public interest. It is further noted that the Municipality shall give consideration to the following criteria:

- a) Does the proposed amendment relate and conform to the vision for the Municipality of Middlesex Centre?
- b) Is there a demonstrated need or justification for the proposed change?
- c) Is the amendment in keeping with the Provincial and County policy?
- d) What are the effects of the proposed change on the demand for Municipal services, infrastructure, and facilities?
- e) Can the land affected by the application be adequately serviced to accommodate the proposed development? Are improvements necessary to adequately service the lands in question?
- f) What impacts will the proposed development have on surrounding land uses, traffic systems, infrastructure and servicing, settlement or Municipal character, features or structures of cultural heritage importance, and natural environment features? Can negative impacts be mitigated or eliminated?

Middlesex Centre's Zoning By-law

The subject land is zoned 'Agricultural (A1)' in Middlesex Centre's Zoning By-law. The current zoning permits a converted dwelling for a maximum of 2 units, although it does not permit an additional residential unit in an accessory building.

Section 4.1 of the Zoning By-law outlines standards for buildings or structures accessory to a dwelling in an Agricultural zone. The maximum height of a building accessory to a dwelling shall not exceed 6.5 m (21.3 ft) and the lot coverage and gross floor area shall not exceed the lesser of 3% of the lot coverage of 165.0 m² (1,776.05 ft²) of gross floor area for accessory buildings located on a lot with an area greater than 5,000 m² (1.25 ac). For the subject land the lesser is 165.0 m² (1,776.05 ft²).

Consultation:

Notice of Complete Application and Public Meeting were circulated to agencies, as well as property owners in accordance with the *Planning Act* and Ontario Regulation 545/06 and 543/06.

Staff have not received any comments from the public prior or after the public, nor at the time of writing this report.

Agency Comments:

At the time of writing this report the following comments had been received:

The Municipality's Chief Building Official reviewed the applications and has identified that in February 2021 the property owners were advised the accessory structure needed to be removed or legitimized. To support the occupation of the building the property owners would need a built permit, footing/foundation permit and new septic system. Additional comments will be provided by the CBO.

The Public Works and Engineering Department has not provided comments regarding the applications/

St. Clair Region Conservation Authority (SCRCA) reviewed the applications and does not support the development of an additional residential unit within a hazard area. SCRCA recommends that the site-specific Agricultural Zone include a provision which requires that the additional residential dwelling unit must be located outside of the Hazard Lands on the property.

If the site-specific Agricultural Zone does not specify that the additional residential unit must be located outside of the Hazard Lands on the property, then it must be demonstrated that future development is directed outside of the hazard. If development is proposed within the hazard, a Development Assessment Report (DAR) will be required to evaluate the hazard lands and the proposed development on the basis of appropriate risk assessment and management relative to the natural hazard feature. Development may be permitted if the DAR establishes to the satisfaction of the Municipality and SCRCA that the risk issues can and will be adequately addressed in accordance with provincial standards. The terms of reference for the DAR should be reviewed by SCRCA prior to the study commencement.

It is our understanding that a private septic system has been constructed to service the accessory structure. If it is determined that a new septic system is required, SCRCA recommends that the septic system be located outside of the regulated area, if that is not possible the septic should be set back from the top-of-bank to the satisfaction of the SCRCA.

Any development and site alteration, inclusive of changing the use of an existing structure, within the Regulated Area will require written permission from the Conservation Authority under Ontario Regulation 171/06.

Full comments are appended to this report as Attachment 5.

Following the public meeting, SCRCA reviewed the site and determined that a 41 metre setback from the McKellar Drain was acceptable to the SCRCA. The setback will ensure that the dwelling is located outside of the meander belt of the McKellar Drain and the 6 metre access allowance, per the Provincial Technical Guidelines. A permit from SCRCA will still be required for the dwelling under Ontario Regulation 171/06

Analysis:

The current Middlesex Centre Official Plan does not contain policies that permit second dwelling units, secondary suites, or additional residential units in accessory buildings. However, the Planning Act and PPS authorizes municipalities to establish policies that permit additional residential units where appropriate to meet the housing needs of the community. As such, an amendment to the Official Plan is required and the following criteria should be examined:

a) Does the proposed amendment relate, and conform to the vision for the Municipality of Middlesex Centre?

The proposed amendment supports the Municipality's vision of providing a variety of housing types for current and future residents, as well as using resources wisely in terms of utilizing available private services. Furthermore, Additional Residential Units (ARU) will be part of the Municipality's Official Plan Review as they are permitted by the Planning Act and the Provincial Policy Statement.

The adopted Official Plan proposes additional direction for the creation of an ARU. Proposed policies include a maximum of 2 ARUs on a lot; demonstration of adequate servicing capacity; demonstration that the unit is not located within the natural heritage system, floodplain, or other hazardous areas; demonstration that the proposal complies with the Minimum Distance Separation; that the unit has a floor area of 49% or less of the primary residential unit; and that the zoning by-law will establish provisions for ARUs including those in detached structures.

b) Is there a demonstrated need or justification for the proposed change?

The proposal is justified by providing another form of housing to the applicants. The intent of additional residential units is to provide supplementary income to the homeowner, provide other forms of housing, as well as assisting family members when it comes to housing requirements for aging relatives.

c) Is the amendment in keeping with the Provincial and County policy?

The proposal conforms to the Provincial Policy Statement and the current County Official Plan as the proposal is contributing to a variety of housing types, accommodated by private services, which is a supported form of servicing under the PPS when full municipal services are not available.

The County of Middlesex is undertaking a review of its Official Plan and proposes new policy to permit additional residential units across the County. Furthermore, additional residential units are supported by the Planning Act and the Provincial Policy Statement where additional residential units are permitted by municipalities across Ontario.

The proposal does not appear to remove active agricultural land from production.

d) What are the effects of the proposed change on the demand for Municipal services, infrastructure, and facilities?

The subject land is proposed to be serviced by private services and there is no intended increase on the demand of Municipal services.

e) Can the land affected by the application be adequately serviced to accommodate the proposed development? Are improvements necessary to adequately service the lands in question?

The applicant has indicated that there is an existing private septic system and well located immediately to the west of the existing accessory structure. However, an appropriately sized and functioning septic system to support the additional residential unit will need to be reviewed prior to the issuance of a building permit to establish the structure permanently for the residential unit. Additionally, SCRCA has indicated that the septic system should be located outside of the regulated area, or, if that is not possible, setback from the top of bank.

f) What impacts will the proposed development have on surrounding land uses, traffic systems, infrastructure and servicing, settlement or Municipal character, features or structures of cultural heritage importance, and natural environment features? Can negative impacts be mitigated or eliminated?

The proposed additional residential unit is located immediately north of a property that contains a large poultry operation and south of a property with stables. At this time it is not known if the additional residential unit would conflict with the MDS setback and if it may impact the ability for the agricultural operation to continue or expand.

The proposed additional residential unit will use a separate driveway away from the principal dwelling unit, but is expected to have minimum impacts on the local traffic system.

The accessory structure is located amongst other accessory buildings and is setback from the roadway to minimize the appearance of the additional residential unit.

The accessory structure and septic system is located outside of the Significant Woodland on the land. However, it appears to be located within the regulated area. SCRCA staff recommend a building setback of 41 metres from the McKellar Drain and that the proponents obtain a permit from the Conservation Authority.

Upon review of the site plan for the land and accessory building, planning staff note a potential conflict with Section 4.1 of the Zoning By-law. Specifically, Section 4.1 regulates the lot coverage and gross floor area for structures accessory to a dwelling in an Agricultural (A1) zone. No buildings or structures on an agricultural property (larger than 5,000 m²) shall exceed the lesser of 3% lot coverage or 165.0 m² (1,776 ft²) of gross floor area. Staff note that aside from the accessory structure proposed for the additional residential unit, there may be four or more buildings or structures accessory to the principal dwelling unit. These buildings include an accessory shed, detached garage,

storage buildings, and a workshop which may cumulatively exceed the maximum gross floor area permitted. Staff has worked with the applicant to confirm the current and potential use of the accessory buildings.

Exclusive of the proposed accessory unit, the applicant confirmed that 2 of the 7 detached buildings on the land can be considered as agricultural buildings and not subject to Section 4.1. The 2 buildings are the detached garage located immediately east of the principal dwelling, and the Gold Creek Saddlery located near the proposed additional residential unit. Combined, the 2 buildings have a floor area of 160.2 m² (1,724 ft²) and is less than the maximum permitted in the zoning by-law. The additional residential unit will exceed the maximum permitted by 79.4 m² (854.7 ft²). Planning staff do not present any concerns with this approach since Section 4.1 of the By-law does not consider living spaces or additional residential units, in general. Further, planning staff note that the intent of Section 4.1 is to limit the amount of land that is hardscaped, to ensure there is no change to the principal use of the land, and to avoid the removal of land from agricultural production. The additional residential unit will not significantly impact or change the main use of the land, and is appropriately sized for an additional residential unit. As such, staff recommend that Section 4.1 continue to apply to the existing or future accessory buildings on the land with an additional limit of 85 m² established for the additional residential unit.

Within agricultural areas, staff recommend that additional residential units should be clustered near the principal dwelling/farm house. This is to prevent the possibility of severing the farm land; to reduce impact to the farm land and surrounding agricultural operations; to promote the co-location of servicing; to demonstrate that the additional residential unit is secondary to the principal dwelling unit and not independent; and to avoid the additional residential unit from being located with the regulated area. Staff continue to take the position that an additional dwelling unit within an accessory building should be located within proximity to the principal dwelling. However, due to proximity to a nearby stable and poultry operations, planning staff find it reasonable to avoid potential conflict with existing agricultural operations and relocate the additional residential unit. As such, staff propose that the zoning by-law amendment should apply to entirety of the land to provide flexibility and this is reflected within the recommended Zoning By-law Amendment schedule 'A'.

Given the above, planning staff determined that the requested zoning by-law amendment, as amended, and official plan amendment are consistent with the Provincial Policy Statement, 2020, the County of Middlesex Official Plan, Middlesex Centre's Official Plan, and Middlesex Centre's Zoning By-law.

Staff recommend that the Official Plan Amendment be adopted as proposed and be forwarded to the County of Middlesex for consideration. Additionally, staff recommend that the zoning by-law amendment, as amended, to permit a secondary unit in an accessory building with a maximum floor area of 85 m² (915 ft²) and enhanced setback from the McKellar Drain be approved.

This opinion is provided with the benefit of receiving comments at the public meeting from members of the public, agencies, Council and staff. 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 applications.

Financial Implications:

None.

Strategic Plan:

This matter aligns with following strategic priorities:

- Balanced Growth

Attachments:

Attachment 1 – Location Map

Attachment 2 – Revised Site Plan

Attachment 3 – Planning Justification Report

Attachment 4 – Draft Official Plan Amendment No. 58

Attachment 5 – SCRCA comments, April 8, 2022

Attachment 6 – SCRCA Meander Belt