

## Member Municipalities

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Chatham-Kent

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Municipality of  
Strathroy-Caradoc

Township of  
Warwick

Planning File No: PL#2022-0023

April 8, 2022

Municipality of Middlesex Centre  
10227 Ilderton Road, RR 2  
Ilderton, ON, N0M 2A0

**Attention: James Hutson, Clerk**

Dear Mr Huston:

**Re: Applications for Official Plan Amendment (OPA 58) and Zoning By-law Amendment (ZBA-02-2022)  
10163 Gold Creek Drive  
N Pt Lot 6, Concession 4, Geographic Township of Lobo, Municipality of Middlesex Centre  
Applicant: Robert and Margaret Robinson**

St. Clair Region Conservation Authority (SCRCA) staff reviewed the above noted applications for Official Plan Amendment and Zoning By-law Amendment.

### Site Characteristics

The subject property is designated as Agricultural Areas in the Middlesex County Official Plan – Schedule A Land Use and designated Agricultural in the Middlesex Centre Official Plan. Neither Official Plan permits secondary dwellings on the subject property. The proposed Official Plan Amendment (OPA 58) is to re-designate the subject property from the Agricultural designation to an Agricultural Special Policy Area designation which will permit a second dwelling unit in an accessory building, which is otherwise not permitted.

Furthermore, under the current Agricultural (A1) Zone, a secondary dwelling is not permitted. The proposed Zoning By-law Amendment (ZBA-02-2022) is to rezone the property from the Agricultural (A1) Zone to a site-specific Agricultural Zone (A1-x) to permit a second dwelling unit within an accessory building.

The hazard lands on the property are comprised of lands subject to the flood and erosion hazards associated with the McKellar Drain that traverses the property. The hazard lands are identified through the 'Hazard Lands (Steep Slopes/Fill Lines)' on Schedule 'C' of the Middlesex Centre Official Plan and through the shaded areas on Schedule A Key Map: 56 of the Zoning By-law.

### Recommendations

SCRCA does not support the development of a second dwelling unit within a hazard area. SCRCA recommends that the site-specific Agricultural Zone (A1-x)

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include a provision which requires that the additional residential dwelling unit must be located outside of the Hazard Lands on the property

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.

## **DELEGATED RESPONSIBILITY AND STATUTORY COMMENTS**

### **Provincial Policy Statement Section 3.1 - Natural Hazards**

SCRCA staff provide the following comments as part of SCRCA's delegated responsibility of representing the provincial interest on natural hazards encompassed by Section 3.1 of the Provincial Policy Statement (PPS), 2020.

The Hazard Lands on the property are comprised of the erosion and flooding hazards associated with the McKellar Drain which traverses the property. The Regulatory Flood Standard for the subject property is based upon flooding that would be expected during a Hurricane Hazel storm event. The Hazard Lands are identified through the 'Hazard Lands (Steep Slopes/Fill Lines)' on Schedule 'C' of the Middlesex Centre Official Plan and through the shaded areas on Schedule A Key Map: 56 of the Zoning By-law.

The PPS generally directs development, outside of hazardous lands adjacent to river and stream systems, which are impacted by flood and erosion hazards in accordance with the following policy:

**3.1.1** *Development* shall generally be directed, in accordance with guidance developed by the Province (as amended from time to time) to areas outside of:

- b) *hazardous lands* adjacent to *river, stream and small inland lake systems* which are impacted by *floodings hazards* and/or *erosion hazards*; and

The PPS defines development as the creation of a new lot, a change in land use or the construction of buildings or structures requiring approval under the Planning Act. The proposed application is for a change in land use.

For the subject property the hazard with the greatest extent is the meander belt setback (slope hazard). As per Figure 2 of the Middlesex Centre Official Plan, the slope hazard boundary is defined by mapping provided by the Conservation Authorities. Based on our existing mapping the proposed location for the second dwelling unit is within the meander belt setback as shown on the attached map.

In addition, Section 4.17 of the Zoning By-law reviews the minimum setbacks from Municipal Drains and Natural Watercourses. Based on our mapping, the McKellar Drain is approximately 3.5 metres from top-of-bank to top-of-bank, therefore no permanent buildings or structures shall be erected or used within 7.5 metres of

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top-of-bank.

SCRCA does not support the development of a second dwelling unit within the Hazard Lands on the property. It is our understanding that the existing accessory structure is on a wheeled platform and that pending approval of the proposed applications it is the intention of the landowner to remove the wheeled platform and have the accessory structure placed on a proper foundation. Based on a review of our best available in-house elevation data, there are lands outside of the Hazard Lands, adjacent to the proposed location, as well as around the existing dwelling area.

SCRCA recommends that the site-specific Agricultural Zone (A1-x) includes 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 A1-x zone does not specify that the second dwelling 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 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 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. Additional fees will be required for the review of technical studies.

### **St. Clair Region Conservation Authority - Ontario Regulation 171/06**

SCRCA staff provide the following comments as part of SCRCA's Regulatory Authority under Ontario Regulation 171/06 "*Development, Interference with Wetlands and Alterations to Shoreline and Watercourses*" made under Section 28 of the *Conservation Authorities Act*.

The subject property has been identified as being regulated under Ontario Regulation 171/06. The policies of the Authority regulate development including: construction/reconstruction of a structure; placement or removal of fill; regrading; altering a watercourse; altering/developing a shoreline; or interfering with the function of a wetland. Written approval from this Authority will be required in order to undertake any of these activities within the regulated area.

The Regulated Area on the property is comprised of the estimated floodplain and the meander belt setback associated with the McKellar Drain. Please be aware that the extent of the Regulation Limit as shown on the attached map is an approximation based on the available information. Please refer to Ontario Regulation 171/06 for a full description of the Regulation Limit.

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Should the landowner wish to proceed with the change in use of the structure within the Regulated Area, a permit for the change in use will be required under Ontario Regulation 171/06. In support of the proposed development a Survey/Plan, prepared by an Ontario Land Surveyor in consultation with the SCRCA, may be required to delineate the long-term erosion hazard setback and the top-of-bank setback required by the Zoning By-law.

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.

## **ADVISORY COMMENTS**

### **Provincial Policy Statement Section 2.1 - Natural Heritage**

In accordance with Planning Act section 3(5), municipal decisions on planning matters shall be consistent with the Provincial Policy Statement, 2020 (PPS). Municipalities are responsible for the implementation of Section 2.1 of the PPS, pertaining to Natural Heritage. SCRCA provides natural heritage technical review and commenting services on behalf of our member municipalities, as per our understanding.

The woodlot on the subject property is designated as Significant Woodland on Schedule 'B' of the Middlesex Centre Official Plan. The proposed secondary dwelling unit location is located greater than 50 metres from the woodland boundary therefore SCRCA has no concerns in regards to natural heritage.

### **Thames-Sydenham and Region Source Protection Plan**

As per Authority Board direction, we also provide the following information as part of our "disclosure service". The Thames-Sydenham and Region Source Protection Plan has been approved and is designed to identify and help address drinking water source protection concerns. The Approved Plan, supporting documents and relevant maps are available at: <http://www.sourcewaterprotection.on.ca>. Portions of the subject property have been identified as being within a vulnerable area or an area where drinking water threat policies apply. These policies have been developed with the intent to reduce risks posed by identified water quality and quantity threats. These approved policies are also available on the website.

## **SUMMARY**

Given the above comments, it is the opinion of the SCRCA that:

1. Consistency with Section 3.1 of the PPS can be demonstrated provided that the dwelling unit is located outside of the Hazard Lands on the subject property;

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2. Ontario Regulation 171/06 does apply to the subject site. A permit from SCRCA will be required prior to any development, including change of use, or site alteration taking place within the Regulated Area;
3. Consistency with Section 2.1 of the PPS has been demonstrated; and
4. A portion of the subject site is located within an area that is subject to the policies contained in the Source Protection Plan.

Thank you for the opportunity to comment. We respectfully request to receive a copy of the decision and notice of any appeals filed.

If you have further questions, please do not hesitate to contact the undersigned.

Sincerely,



Laura Biancolin  
Planner

Encl. Map

cc: Marion Cabral, Planner



