



**Meeting Date: September 21, 2022**

**Submitted by: Dan FitzGerald MPI RPP MCIP, Planner II**

**Report No: PLA-64-2022**

**Subject: Application for Consent (B-10/2022) and (B-11/2022); 23790  
Denfield Road**

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**Recommendation:**

THAT Consent Applications B-10/2022, filed by Stewart Findlater on behalf of Heather Cook in order to sever a residential lot from a 1.79 acre (0.73 hectare) residential property to facilitate the construction of a single-detached dwelling on the severed lot, with the severed lot having a front of approximately 43.25 metres (142 feet) along Denfield Road (CR 20), a depth of 84.6 metres (278 feet) and an area of approximately 0.9 acres (0.365 hectares), and the retained a frontage of approximately 43.25 metres (142 feet) along Denfield Road (CR 20), a depth of 84.6 metres (278 feet) and an area of approximately 0.9 acres (0.365 hectares), from a property legally described as Part of Lot 28, Concession 15 South, in the Municipality of Middlesex Centre, County of Middlesex; be GRANTED.

AND THAT Consent B-10/2022 be subject to the following conditions:

1. That the Certificate of Consent under Section 53(42) of the *Planning Act* shall be given within two years 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 fulfilled.
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-10/2022 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 any outstanding property taxes for the severed and retained lots of Consent B-10/2022 be paid in full.
7. That the transfers for the subject applications be registered concurrently by the Owner's solicitor.
8. That the Owner submits a Storm Water Management Report for the retained and severed lands ensuring no negative impacts to adjacent properties, to the satisfaction of the Municipality.
9. That the Owner submits a lot grading plan for the severed and retained lands, to the satisfaction of the Municipality
10. That the existing access be removed and a new shared access established, and that the owner be required to apply for and receive all necessary permits, to the satisfaction of the Municipality.
11. That the severed and retained parcel dedicate a 0.3 metre reserve across the entirety of the frontage, save and accept the shared access easement on the retained and severed parcels.
12. That the Owner provide confirmation that the private sewage disposal system that services the residence on the retained lot of Consent B-10/2022 is wholly contained on the said lot and that a 100% contingency area exists, to the satisfaction of the Municipality.
13. That if necessary, the Owner be required to install a new septic system on the retained lands and demonstrate that a 100 % contingency area exists outside of any easements, to the satisfaction of the Municipality, prior to the issuance of a Certificate of Consent.

14. That the Owner demonstrate that the severed land is adequately sized for a septic system and contingency area, to the satisfaction of the Chief Building Official.
15. That the Owner confirm all services for the retained lands are wholly located on the retained parcel, including but not limited to any water lines, water shut off valves, and hydro lines servicing the retained lands, to the satisfaction of the Municipality.
16. That the Owner remove any improvements, to the severed parcel, to the satisfaction of the Municipality.
17. That the Owner be required to establish a shared access easement on title of the served and retained lands, to the satisfaction of the Municipality and County Engineer.
18. That the Owner be required to dedicate lands along County Road 20 (Denfield Road) of up to 18 metres from centreline for the entire frontage facing said road, for both the severed and retained lands, to the satisfaction of the County of Middlesex Engineer, if the roadway is not already to that width.

AND THAT Consent Applications B-11/2022, filed by Stewart Findlater on behalf of Heather Cook, in order to establish a shared access easement for the severed and retained parcels for consent application B-10/2022, with the easement being located on a property legally described as Part of Lot 28, Concession 15 South, in the Municipality of Middlesex Centre, County of Middlesex; be GRANTED.

AND THAT Consent B-11/2022 be subject to the following conditions:

1. That the Certificate of Consent under Section 53(42) of the *Planning Act* shall be given within two years 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 fulfilled.
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-11/2022 and that this plan be approved by the Municipality prior to being deposited with the Land Registry Office.

4. That the Owners' 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 Owners' 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 any outstanding property taxes for the subject lands of Consent B-11/2022 be paid in full.

AND FURTHER THAT the reasons for granting Consent application B-10/2022 and B-11/2022 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,
- The proposal complies with the Middlesex Centre Comprehensive Zoning By-law.

**Purpose:**

The purpose of this report is to provide Council with a recommendation regarding a proposal to create a new residential lot on a property that is located on the east side of Denfield Road (County Road 20), north of the intersection of Denfield and Fifteen Mile Road, in the Hamlet of Denfield.

A location map is included as Attachment 1.

**Background:**

The purpose and effect of the subject applications is to sever one residential lot from a 1.79 acre (0.73 hectare) residential property in order to facilitate the construction of a single-detached dwelling on the severed lot. The lot proposed to be severed would have a frontage of approximately 43.25 metres (142 feet) along Denfield Road (CR 20), a depth of 84.6 metres (278 feet) and an area of approximately 0.9 acres (0.365 hectares); while the lot to be retained would be the same dimensions of the proposed severed lot. The owners agent has also applied for a concurrent consent application to permit a shared access easement, measuring 6 metres by 6 metres, to be established straddling the proposed property lines to consolidate the access to either lot at one location. The effect of the proposal is to establish a vacant residential parcel to permit the construction of one new single detached dwelling.

An illustration of the proposal is included as Attachment 2.

The subject land currently contains a single detached dwelling in addition to accessory residential uses. Located within the Hamlet boundary of Denfield, they are bounded by residential development to north south and west, and back onto agricultural lands to the east.

### **Policy Regulation:**

The subject property is located within a 'Settlement Area' according to the County of Middlesex Official Plan and is designated 'Hamlet' by the Middlesex Centre Official Plan. The land is zoned Hamlet Residential First Density (HR1).

### Provincial Policy Statement (PPS):

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

Section 1.1.3 of the PPS speaks to Settlement Areas, which identifies settlement areas as the focus of growth and development. Section 1.1.3.3 of the PPS states, 'Planning authorities shall identify appropriate locations and promote opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.

Section 1.1.3.4 speaks to 'appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety.

### County of Middlesex Official Plan:

County Council adopted Amendment No. 3 to the County official plan on July 19, 2022. The purpose of the Amendment was to update the official plan to ensure that the land use planning policies are current, reflect Provincial legislation and policy, have regard for matters of Provincial interest and any guideline documents, are consistent with the Provincial Policy Statement (PPS), and reflect changing community needs for the next 25-years. While the policies implemented through Amendment No. 3 are not in force and effect until Ministry approval, the updated policies are included in this report for

informative purposes indicating the intent of County Council, but are not determinative for the purposes of this planning application.

The County of Middlesex Official Plan speaks to settlement areas in section 2.3.8. This section states 'urban areas and community areas shall be the focus for future growth including residential, commercial and industrial development'. The County Official Plan also has a similar servicing hierarchy as the PPS, and prefers full municipal services within urban areas.

Section 4.5.3.3 of the County Official Plan speaks to Settlement Areas and promotes infilling development in built-up areas, where the proposed lots are compatible with the lot area, frontage and density patterns of the surrounding area and the application represents orderly and efficient use of land, and its approval would not hinder future development of the retained lands.

#### Middlesex Centre Official Plan:

The Municipality of Middlesex Centre adopted Amendment No. 59 to the Middlesex Centre Official Plan on May 18, 2022. The purpose of the Amendment was to update the official plan to ensure that the land use planning policies are current, reflect Provincial legislation and policy, have regard for matters of Provincial interest and any guideline documents, are consistent with the Provincial Policy Statement (PPS), and reflect changing community needs for the next 25-years. The plan also reviewed growth strategies and requirements of the planned horizon. While the policies implemented through Amendment No. 59 are not in force and effect until County of Middlesex Council approval, the updated policies may be included in this report for informative purposes indicating the intent of Middlesex Centre Council, but are not determinative for the purposes of this planning application.

Middlesex Centre's Official Plan designates the subject lands as 'Hamlet'. Within this designation residential uses are permitted, including single detached dwellings.

Section 5.1.3 of the Local Official Plan speaks to approved uses in the Hamlet areas in addition to lot creation. It is noted that Hamlet Areas within the Municipality are expected to accommodate only limited future development, through infilling within the existing Hamlet settlement boundaries. New lots shall generally be created through the consent process, however plans of subdivision will be utilized where vacant lands exist within Hamlets, between the existing built up area and the existing settlement boundary.

New development within Hamlet Areas must be serviced by acceptable servicing standards. Where partial municipal services are considered, supporting studies must address all applicable servicing options and establish that the development may proceed appropriately on partial municipal services. Significant or major new development, such as the development of more than three new lots through plan(s) of subdivision, will require provision of full municipal services.

Section 10.3 of Middlesex Centre's Official Plan speaks to lot creation and states,

- a) Severances shall only be granted if a plan of subdivision is not necessary for the proper and orderly development of the land. Plans of subdivision will not be required where three or fewer new lots are proposed to be created, or where circumstances exist where a plan of subdivision is not considered by the Municipality to be necessary. Where more than three new lots are proposed to be created, the Municipality may exercise flexibility in determining whether a plan of subdivision process is required for the orderly development of the land. Notwithstanding the above, in all cases where the creation or extension of municipal streets and/or services is proposed, a plan of subdivision process will be required.
- b) Where individual wells and septic systems are proposed, lot areas must be of a size and configuration to accommodate an appropriate septic system, sewage envelope and contingency area. For a conventional septic system, a storage envelope consists of the area occupied by the tile bed and mantle. The size of the storage envelope will vary depending on the projected water use of the anticipated use and the soils and slope of the subject site. The contingency area will be equal in size to the tile bed and sewage mantel.
- c) All lots must front on and have access to an existing public road maintained on a year round basis and at a reasonable standard of construction. Direct access to and from County or Provincial roads will be limited in accordance with the policies and regulations established by the agencies having jurisdiction over these roads.
- d) An adequate and potable water supply must be available for any proposed lots created by consent. An exception to this policy may be made if it can be shown that the purpose for which the lot(s) in question is to be used does not require a water supply.
- e) All lots created by severance must be suitable or capable of being made suitable to support a sewage disposal system.
- f) Severances may be permitted for the purposes of making a lot boundary correction provided that such corrections are minor in nature.

## **Consultation:**

Notice of the applications 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;

The Municipality's Chief Building Official (CBO) has reviewed the subject applications and notes that the consent should not be considered until such time as the applicants septic system on the retained lands is shown correctly on the consent sketch, if the applications are approved, it is recommended that as a condition of the consent, the following be required:

- Evidence showing both properties are adequately sized for a septic system and contingency area, to the satisfaction of the Chief Building Official,
- Installation of a new septic system on the retained parcel, to be fully contained within the boundary meeting all required setbacks, prior to the issuance of a Certificate of Consent,
- Removal of any improvements, including a concrete pad, to the satisfaction of the Chief Building Official,
- Engineered lot grading plan, to the satisfaction of the Chief Building Official,
- That the applicant remove any infrastructure from the retained lands located on the proposed severed land, not limited to but including any water lines, water shut off valves, and hydro lines servicing the retained lands, to the satisfaction of the Municipality,
- That the Owner be required to fully remove the existing laneway servicing the retained lands and establish a new laneway fully located within the retained parcel, to the satisfaction of the Municipality.

## **Analysis:**

The Provincial Policy Statement, County Official Plan and the Municipality's Official Plan generally permit lot creation within Settlement Areas, subject to servicing and compatibility.

The Planning Policies have a servicing hierarchy and prefer municipal services when available. The Official Plan also permits severances in areas on private services, so long as it can be demonstrated that the lands can be serviced appropriately. An engineering

report has been submitted as part of the application identifying a potential building pocket on the lands to be severed as well as the retained parcel. It is acknowledged in the applicant's report that the existing sanitary septic system will need to be removed and upgraded on the retained parcel, which has been included in the recommended conditions of consent. The applicant will also need to provide evidence supporting the ability to maintain a 100 percent contingency area on the retained lands, in addition to the severed parcel.

Conditions have also been recommended for consideration that engineering grading plans be required, depicting no negative impacts to existing development. Additionally, the applicant will be required to relocate any services that may exist on the proposed severed lands that currently service the retained lands. Lastly the applicant will be required to remove the existing driveway across the severed lands and re-establish a new access fully located on the retained lands.

As a requirement of the County of Middlesex, the applicant has concurrently applied for a shared access easement. The easement will limit access to the County road to reduce potential access points and conflicts with existing traffic patterns.

The proposed infill development represents a more efficient use of land in a Hamlet Settlement Area of the Municipality, so long as the applicant is able to demonstrate sufficient space for private sanitary services. Generally, intensification is encouraged by provincial policy as well as the County and Middlesex Centre official plans and is the preferred form of development because it promotes more efficient use of land and infrastructure, while reducing the need for expansion of settlement area boundaries. Planning staff is of the opinion that the subject property is suitable for intensification within the village and would promote compact form and more appropriate development standards for residential, so long as they are able to adequately demonstrate appropriate services for the severed and retained lands.

Both the County and the local Official Plan speak to lot creation via the consent process versus a plan of subdivision and contemplate three lots being permitted via the consent process where no extension of infrastructure is required. Given that only one lots is proposed to be created and one access point to both lots, staff find the subject applications to comply with the consent policies.

The proposed residential development for the severed and retained lands is compatible with the surrounding land uses and there are no anticipated negative impacts from the subject applications.

The proposed development would occur within the Hamlet of Denfield. The Hamlet Residential First Density (HR1) zone that applies in the subject area stipulates a minimum lot frontage of 20 metres (66 feet) and a minimum lot area of 1,500 square metres (0.4 acres) where there is a public water supply or public sanitary sewage system available. The requested lot frontages and lot areas for the parcels proposed to be severed and retained exceed the minimum requirements in the area and the development represents an intensification of land uses within a partially services Hamlet area of the Municipality. Planning staff is of the opinion that the subject property is a suitable candidate for intensification as it would promote compact form and more appropriate development standards for residential lots having access to partial services, so long as they applicant is able to demonstrate through conditions of consent that the retained and severed lands are capable of maintaining appropriate private sanitary services.

Planning staff is satisfied that the above-noted items, as well as other matters identified through the review of the subject proposal, can be adequately addressed through conditions of approval; thus ensuring that the development would be consistent with the Provincial Policy Statement, conform to the Middlesex Centre and County of Middlesex official plans, comply with the Middlesex Centre Comprehensive Zoning By-law and represent sound land use planning.

Given the above, planning staff are recommending that the subject applications be approved.

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.

**Attachments:**

1. Location Map
2. Proposed Severance Sketch
3. Septic System Nitrate Study