



Meeting Date: January 25, 2023

Submitted by: Dan FitzGerald MPI RPP MCIP, Planner II

Report No: PLA-6-2023

Subject: Application for Consent (B-12/2022) and Zoning By-law Amendment (Z-11/2022).

Recommendation:

THAT Consent Applications B-12/2022, filed by Wayne Lewis, Lynda White, Nancy White, Steve White, and Patty Munkittrick, in order to sever a 4.33 acre (1.755 hectare) residential land holding from a 48.52 acre (19.64 hectare) agricultural parcel, to facilitate future residential lot creation, with the severed lot having a front of approximately 130 metres (426.5 ft) on Thirteen Mile Road, and an area of approximately 4.33 acres (1.755 hectares), and the retained a frontage of approximately 20 metres (66 feet) along Thirteen Mile Road and an area of approximately 44.5 acres (18.03 hectares), from a property legally described as Part of Lot 17, Concession 13 South, in the Municipality of Middlesex Centre, County of Middlesex; be GRANTED;

AND THAT Consent B-12/2022 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-12/2022 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-12/2022 be paid in full.
7. That the transfers for the subject applications be registered concurrently by the Owner's solicitor.
8. That the severed and retained lands maintain their own, independent access, to the satisfaction of the Municipality.
9. That if necessary, the owner confirm all services for the retained lands are wholly located on the retained parcel.
10. That the severed and retained lands be rezoned prior to the issuance of a certificate of consent.
11. That, if necessary a revised assessment schedule in accordance with the Drainage Act, as amended, be commissioned and paid for by the Owner.

AND FURTHER THAT the reasons for granting Consent application B-12/2022 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 complies with the Middlesex Centre Comprehensive Zoning By-law.

Rezoning Recommendation:

THAT Application for Zoning By-law Amendment Z-11/2022 filed by Wayne Lewis, Lynda White, Nancy White, Steve White, and Patty Munkittrick for the lands legally described Part of Lots 17, Concession 13 South, in the Municipality of Middlesex Centre, County of Middlesex, and known municipally as 14200 Thirteen Mile Road, to

rezone the severed lands from the Existing Use (EU) Zone to a Hamlet Residential First Density (HR1-h) Holding Zone, and the retained lands from an Existing Use (EU) Zone to a site specific Existing Use – Exception (EU-#) Zone, to recognize the reduced frontage and area of the lands; be GRANTED, and that the implementing By-law be forwarded to Council for consideration once a deposited reference plan has been provided to the satisfaction of the Municipality.

Purpose:

The purpose of this report is to provide Council with a recommendation regarding a proposal to create a new residential holding for the portion of land located within the settlement area of Birr, located on north side of Thirteen Mile Road, west of the intersection at Highway 4 (Richmond Street) and Thirteen Mile Road in the Hamlet of Birr.

A location map is included as Attachment 1.

Background:

The purpose and effect of Consent Application B12/2022 is to sever a lot from an existing farm holding with a frontage of approximately 130 metres (426.5 ft) on Thirteen Mile Road, and an area of approximately 4.33 acres (1.755 hectares). The retained farmland would maintain a frontage of approximately 20 metres (66 feet) on Thirteen Mile Road and an area of approximately 44.5 acres (18.03 hectares). The effect would be to create a land holdings that is located within the settlement area of Birr, while the remaining lands be maintained as farmlands.

Additionally, the applicant has concurrently applied for a Zoning By-law Amendment. The purpose and effect of the zoning by-law amendment would be to rezone the severed lands from the Existing Use (EU) Zone to the Hamlet Residential First Density (HR1-h) – Holding Zone to recognize the future residential potential of the property, which will be subject to a further planning approval in the future. The retained lands are proposed to be rezoned from an Existing Use (EU) Zone to a site specific – Existing Use – exception (EU-#) Zone, to recognize the reduced frontage and area of the lands.

An illustration of the proposal is included as Attachment 2.

The subject land is currently vacant agricultural land, with a significant woodland and natural heritage features located to the rear of the property. It is surrounded by agricultural lands to the north, east (partially), and west. It also abuts the hamlet of Birr for a portion of the lands to the east and south of the subject property. As indicated, it is partially within the existing settlement area of the hamlet of Birr.

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 Existing Use (EU) Zone.

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.

Section 1.6 of the PPS speaks to servicing. The PPS has a hierarchy for services, where municipal services are the preferred form of servicing. Section 1.6.6.1a) states 'Planning for sewage and water services shall direct and accommodate expected growth or development in a manner that promotes the efficient use and optimization of existing municipal sewage services and municipal water services'.

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.

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. The applicant is proposing only to remove the lands within the Hamlet of Birr from the lands that are located outside of the Hamlet. Any future development of the lands would be subject to a future planning approval and require all necessary engineering reports and analysis.

To ensure its future orderly development, Planning Staff have recommended the inclusion of a holding symbol on the lands. This will ensure any future development is done so in an orderly and efficient way.

Conditions have also been recommended for consideration with the application to ensure the orderly development of the lands. It is not the applicant's intent to develop the lands for residential purposes at this time. Any future development would be subject to additional planning approvals.

Based on the plan provided, the remnant lands would maintain their access to Thirteen Mile Road and their agricultural vitality would not be impacted by the proposed severance.

The proposed future 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 and reduces 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 as a future residential holding, 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 application.

The proposed development would occur within the Hamlet of Birr. 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. Consent Sketch