



Meeting Date: Click or tap to enter a date.

Submitted by: Marion-Frances Cabral, Planner

Report No: PLA-72-2023

Subject: Application for Zoning By-law Amendment (ZBA-17-2023) for 14727 Nine Mile Road; Filed by Joseph Hentz (Lerners LLP) on behalf of 1879517 Ontario Limited

Recommendation:

THAT Zoning By-law Amendment Application (ZBA-17-2023), as amended, filed by Joseph Hentz (Lerners LLP) on behalf of 1879517 Ontario Limited, to rezone the lands known as 14727 Nine Mile Road from 'Agricultural (A1)' to 'Surplus Residence (SR)' and 'Agricultural exception 49 (A1-49)' for the severed and retained lands of consent application B-10/23, be APPROVED.

Purpose:

The purpose of this report is to provide Council with a recommendation regarding a rezoning application for a property on the southwest corner of Nine Mile Road and Adelaide Street North. The subject property is legally described as Concession 8 N Pt Lot 13, Municipality of Middlesex Centre (geographic Township of London).

A location map is included as Attachment 1.

Background:

The purpose of the subject rezoning application is to implement a condition of severance imposed by Middlesex Centre's Council for Consent B-10/23, which conditionally severed a lot with an area of approximately 0.44 ha (1.1 ac) in order to accommodate a surplus farm residence. The retained parcel is proposed to be approximately 40.29 ha (99.6 ac).

The effect of the subject application is to rezone the severed lot from the 'Agricultural (A1)' zone to the 'Surplus Residence (SR)' zone to permit the non-farm dwelling, and the retained lot from the 'Agricultural (A1)' zone to the 'Agricultural – No Residences (A3)' to prohibit new residential uses from establishing on the agricultural parcel.

The lands are partially regulated by the Upper Thames River Conservation Authority (UTRCA). The lands also contain natural heritage features identified by the Middlesex Natural Heritage Systems Study 2014 as well as significant woodlands.

Policy Regulation:

The property is designated as 'Agricultural Area' by Middlesex County's Official Plan and designated as 'Agriculture' by Middlesex Centre's Official Plan. The property is zoned 'Agricultural (A1)' by Middlesex Centre's Comprehensive Zoning By-law. As such, the policies and provisions below are applicable to the lands.

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 PPS contains policies that address the protection of agricultural uses for the long-term including permitting limited non-agricultural development and lot creation.

For the purpose of this application section 2.3.4 of the PPS speaks to lot creation in prime agricultural areas, stating that lot creation may be permitted for a residence surplus to a farming operation as a result of farm consolidation subject to specific criteria. Such criteria includes that the 'severed' area be limited to a minimum size needed to accommodate the residential use and appropriate sewage and water services and that any new residential dwellings are prohibited on any retained lot of farmland created by the severance.

Middlesex County's Official Plan:

The County of Middlesex Official Plan (County Plan) designates the subject property as 'Agricultural Area'. The County Plan recognizes agriculture as the predominant land use outside of settlement areas or natural environment areas. The Agricultural Area policies are intended to protect agricultural lands from conflicting land uses that are not compatible with agricultural uses and practices.

As a way to protect agricultural lands, the County Plan (section 4.5.3.4) limits the severance of agricultural lands for limited reasons. However, the County Plan permits severances where a residence is surplus to a farming operation as a result of farm consolidation provided that the residence was built at least 10 years prior and that new residential dwellings are prohibited on any vacant retained lot of farmland created by the severance.

Additionally, new farm lots are discouraged to be less than a typical township lot of about 40 hectares in area. Farm lot sizes shall be sufficiently large farming blocks to maintain flexibility to adapt to future changes in agriculture and to avoid the fragmentation of farmland.

Middlesex Centre's Official Plan:

The intent of the Agricultural designation within Middlesex Centre's Official Plan is to preserve agriculture as the primary use outside of Settlement Areas and enhance the viability of agricultural operations, wherever possible. In order to achieve this intent, the plan contains policies pertaining to severances in agricultural areas and discouraging the fragmentation of farm lots.

Consistent with the PPS and the County Plan, Middlesex Centre's Official Plan permits the severance of a residence surplus to a farming operation subject to conditions that need to be satisfied (section 10.3.2.1).

Conditions include prohibiting livestock on the severed lot; prohibiting any new residences on any retained lot resulting from the severance; and recognizing the minimum lot area and frontage of the retained lot where it does not meet the provisions of the zoning by-law.

Middlesex Centre Zoning By-law:

The requested amendment would facilitate a consent for severance that was conditionally approved by Council in June 2023. The application for rezoning would rezone the provisionally granted severed lot from the 'Agricultural (A1)' zone to the 'Surplus Residence (SR)' zone to recognize the existing, non-farm residential use.

Further, the amendment would rezone the proposed retained lot from the 'Agricultural (A1)' zone to the 'Agricultural – No Residences (A3)' zone to prohibit any new residential uses on the agricultural parcel.

Consultation:

Notice of the application has been posted on site and circulated to agencies, as well as property owners in accordance with the *Planning Act* and Ontario Regulation 545/06.

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:

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

The Municipality's Chief Building Official reviewed the application and did not have any comments/objections.

The Municipality's Public Works and Engineering Department reviewed the application and did not have any comments/objections.

The UTRCA reviewed the application and has no objections to the rezoning. However, any future development to the severed lands (non-farmed parcel) may require a Section 28 Permit or Letter of Clearance from the UTRCA depending on the location.

Analysis:

As a result of the severance for a surplus farm dwelling (File: B-10/23), the application requests to rezone the severed lot to 'Surplus Residence (SR)' and the retained lot to 'Agricultural – No Residences (A3)'. The subject lands are currently designated 'Agricultural' within the County of Middlesex and Middlesex Centre official plans, and zoned 'Agricultural (A1)'.

The policies of the PPS and official plans are intended to preserve agricultural lands and the overall agricultural area from fragmentation and incompatible or non-agricultural uses such as residential dwellings. The requested re-zoning application to maintain a minimum size and prohibit new residential development on the proposed retained lot, and limit the use and size of the provisionally granted severed residential lot is consistent with the PPS, County of Middlesex Official Plan and Middlesex Centre Official Plan.

Additionally, the Municipality's Comprehensive Zoning By-law requires a minimum lot area of 0.2 ha (0.5 ac) and a minimum lot frontage of 30 m (98 ft) in the 'Surplus Residence (SR)' zone. The 'Surplus Residence (SR)' zone references Section 4.16 of the Zoning By-law to establish a minimum front yard setback. Section 4.16 requires that buildings and structures for residential uses must be setback a minimum of 15.0 m (49 ft) from the streetline. The general 'Agricultural (A1)' zone requires a minimum lot area 40 ha (99 ac) and a minimum lot frontage of the lesser of 300 m (984 ft).

Upon review of the details of the severance, the proposed severed parcel will meet the provisions of the requested 'Surplus Residence (SR)' zone. However, after reviewing the details of the proposed retained parcel, staff identified that the lands contain an existing triplex known as 14771 Nine Mile Road.

Though provincial and local policies require the prohibition of new residential uses on the land, staff recognize the existing residential use does not further impact agricultural activities on the land or abutting farmland, and should not be considered new residential development on the land. As such, staff recommend that that retained parcel be rezoned to a new-site specific 'Agricultural exception 49 (A1-49)' zone to recognize the existing triplex (apartment dwelling units). Staff recommend that the use be considered as an *existing use* which can continue to be permitted until use ceases on the lands or until the landowner applies for specific permission to permit more than 2 dwelling units on a property (e.g. Official Plan Amendment to permit additional dwelling units).

Given the above, planning staff recommend that the subject application, as amended by staff, be approved, as the proposal is consistent with the Provincial Policy Statement, 2020, the County of Middlesex Official Plan and Middlesex Centre's Official Plan.

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:

- Balanced Growth

Attachments:

Attachment 1 – Location Map