



**Meeting Date: November 15, 2023**

**Submitted by: Dan FitzGerald MPI MCIP RPP, Manager of Planning**

**Report No: PLA-76-2023**

**Subject: Consent Application (B-20/2023); 14387 Ilderton Road**

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**Recommendation:**

THAT Consent Application B-23/2023, filed by Jack Sousa on behalf of Farhi Farming Corporation in order to sever a residence surplus to a farm operation as a result of consolidation, from a lot legally described as Part of Lot 16, London Concession 10, in the Municipality of Middlesex Centre, County of Middlesex, and is municipally known as 14387 Ilderton Road, be DENIED.

AND THAT should Council grant Consent Application B-20/2023, the following conditions be attached to the decision:

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 met.
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-20/2023 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 the Owner enter into a severance agreement with the Municipality in order to advise future owner of the severed lot of Consent B-20/2023 of normal farm practices occurring in the area as outlined in the Farming and Food Production Protection Act, 1998, as amended.
7. That any outstanding property taxes for the severed and retained lots of Consent B-20/2023 be paid in full.
8. That, if necessary a revised assessment schedule in accordance with the Drainage Act, as amended, be commissioned and paid for by the Owner.
9. That a Zoning By-law Amendment that recognizes the residential use of the severed lot and reduced frontage and prohibits any additional residential use on the retained lot of Consent B-20/2023 be in full force and effect.
10. That the Owner provide confirmation that the private sewage disposal system that services the residence on the severed lot of Consent B-20/2023 is wholly contained on the said lot and that a 100% contingency area exists, to the satisfaction of the Municipality.
11. That the severed land requires its own entrance, address and any laneway connecting the retained and severed land shall be altered in such a way that one cannot travel from one parcel of land to the other.
12. That the hydro service for the severed lands be fully within the boundary of the proposed severed lot.
13. That any remaining buildings on the retained lands maintain their own hydro service wholly contained on the retained lands.
14. That an address be assigned and number erected for the retained agricultural parcel.
15. That the Owner will be required to dedicate lands measured up to 18 m from the centreline of construction of County Road 16 (Ilderton Road) across the severed and retained parcels to the County of Middlesex for the purposes of road widening if the right of way is not already to that width.

AND FURTHER THAT the reasons for denying Consent Application B-20/2023 include:

- The proposal is not consistent with the Provincial Policy Statement; and,
- The proposal does not conform to the County of Middlesex Official Plan and the Middlesex Centre Official Plan.

**Purpose:**

The purpose of this report is to provide Council with a recommendation in regard to an application for a surplus farm dwelling severance on a farm that is located on the south side of Ilderton Road (CR16) and Richmond (Kings Highway 4), on the southeast side of the intersection of the aforementioned roads.

A location map is included as Attachment 1.

**Background:**

The purpose and effect of Consent Application B-20/2023 is to sever a residence surplus to a farm operation as a result of consolidation. The severed lands are proposed to have a frontage of approximately 10.4 metres (95 feet) on Ilderton Road (CR16) and an area of approximately 4.99 acre (2 hectares). The retained farmland would maintain a broken frontage of approximately 446.5 metres (1465 feet) on Ilderton Road, and an area of approximately 90 acres (36.4 hectares).

The subject lands currently contain a single detached dwelling and a detached accessory structure. The lands are serviced by private services in the form of a septic system and a well. The property is surrounded by agricultural lands in crop production. It is regulated by the Upper Thames River Conservation Authority and contain a Natural Heritage Feature as identified by the Middlesex Natural Heritage Systems Study and a Significant Woodland.

A sketch of the proposal is included as Attachment 2.

**Policy Regulation:**

The subject land is designated 'Agricultural Area' according to the County of Middlesex Official Plan and 'Agriculture' by the Middlesex Centre Official Plan. The land is zoned 'Agricultural' (A1) by Middlesex Centre's Comprehensive Zoning By-law.

**Provincial Policy Statement (PPS)**

According to Section 3 of the Planning Act, as amended, decisions made by planning authorities "shall be consistent with" the PPS. The principal policies of the PPS that are applicable to the proposed development include:

Section 2.3.4.1(c) of the PPS directs that lot creation may be permitted for a residence surplus to a farming operation as a result of farm consolidation, provided the new lot is limited to a minimum size needed to accommodate the use and appropriate sewage and water services, and new residential dwellings are prohibited on the remnant parcel of farmland.

### **County of Middlesex Official Plan:**

The principal policies of the County of Middlesex's Official Plan that are applicable to the proposed development include:

Section 4.5.3.4(a) of the Plan indicates that consents to sever a residence surplus to a farming operation as a result of farm consolidation may be permitted, provided the residence was built at least 10 years ago, and that the new residential dwellings are prohibited on any vacant remnant parcel of farmland created by the severance.

### **Middlesex Centre's Official Plan**

The principal policies of Middlesex Centre's Official Plan that are applicable to the proposed development include:

The criteria for proposals to sever surplus farm residences, as outlined in Middlesex Centre's Official Plan, are as follows:

"10.3.2.1...

- d) Consent to sever a residence surplus to a farming operation as a result of farm consolidation may be permitted, provided the following conditions are satisfied:
  - i. Farm consolidation occurs or has occurred through the acquisition of an additional farm property.
  - ii. The farming operation consists of at least two farms. The farms may be located in different municipalities and the registered ownerships of the farms need not necessarily be identical provided it is demonstrated that the farms are operated as a single operation.
  - iii. The farming operation demonstrates that the acquired farm has rendered a residence surplus to the needs of the operation.
  - iv. The residence was constructed prior to January 1, 1999.
  - v. The residence is habitable, as determined by the Municipality's Chief Building Official.
  - vi. The lot for the surplus farm residence is limited to the minimum size needed to accommodate the use and appropriate sewage and water services, including contingency areas. The loss of agricultural land shall be avoided wherever possible when determining an appropriate lot size. Environmental features, including but not limited to natural heritage features and natural hazards, will also be avoided when determining an appropriate lot size.

- vii. That safe ingress/egress for vehicles is possible for both resulting lots, which may necessitate new road entrances or road upgrades to be undertaken at the expense of the applicant. Environmental features, including but not limited to natural heritage features and natural hazards, will be avoided when considering new road entrances or road upgrades.
- viii. If required, a revised assessment schedule in accordance with the Drainage Act, as amended, is commissioned and paid for by the applicant.
- ix. The lot creation for the surplus farm residence is to comply with the Minimum Distance Separation I formula if there are livestock buildings on the remnant farm.
- x. Livestock is prohibited on the residential lot, specifically through the Municipality's Comprehensive Zoning By-law.
- xi. A notice is registered on the title of the lot that is to accommodate the surplus farm residence; specifically notifying future owners of normal farm practices, as outlined in the Farming and Food Production Protection Act, 1998, as amended.
- xii. New residences are prohibited on any remnant farm lot resulting from the severance, specifically through the Municipality's Comprehensive Zoning By-law.
- xiii. If the remnant farm lot does not meet the minimum lot area and lot frontage standards of the Comprehensive Zoning By-law, the new minimum lot area and lot frontage that result are to be recognized through an implementing zoning by-law amendment. This requirement shall not apply if the remnant farm is merged in title with an abutting farm.
- xiv. There are no negative impacts on natural and built heritage features as a result of the severance.
- xv. Natural hazard concerns relating to the severance are addressed to the satisfaction of the conservation authorities that have jurisdiction in the area."

**Consultation:**

Notice of the application has been circulated to agencies, as well as property owners in accordance with the requirements of the Planning Act.

**Public Comments:**

At the time of writing the subject report, one public verbal comment was received, noting an objection to the proposed severance due to the size.

### **Agency Comments:**

The following comments were received at the time of writing this report;

**Hydro One:** applicant advised to contact Hydro One regarding any service relocations.

### **Middlesex Centre Chief Building Official:**

Should the committee of adjustment approve this application, I recommend the following conditions:

That the applicant confirms to the satisfaction of the municipality, that the septic system will be wholly contained and a 100 % contingency area is available.

That if applicable, the water service to the farm buildings be removed to the satisfaction of the municipality.

That an address be assigned and number erected for the retained agricultural parcel.

**Middlesex Centre Public Works and Engineering Department:** that a drainage reassessment be included as a condition of consent if required.

### **Analysis:**

The Provincial Policy Statement (PPS), County Official Plan and Municipality's Official Plan provide for opportunities to create lots in agricultural areas to dispose of a dwelling surplus to a farming operation as a result of farm consolidation, subject to evaluation criteria.

The Provincial Policy Statement directs that lot creation may be permitted for a residence surplus to a farming operation as a result of farm consolidation, provided the new lot is limited to a minimum size needed to accommodate the use, as well as an appropriate sewage and water services.

Middlesex Centre's Official Plan indicates that the severed parcel should generally only be as large as necessary to accommodate on-site water and sanitary disposal facilities. Staff are unaware if the lands proposed to be severed contain the septic system as details were not provided by the applicant. A contingency area has also not been identified.

Planning staff is of the opinion that the requested severance of a surplus farm residence has not met the required criteria of the Middlesex Centre Official Plan. The resultant lot size represents a risk to potentially increase the reduction of prime agricultural lands within the Municipality due to development choices by the landowners. Agricultural lands are finite. Approval of such consent applications would further exacerbate the potential loss of prime agricultural lands for residential purposes.

Given the above, planning staff are recommending that the subject application be denied. However, should Council grant Consent Application B-20/2023, standard conditions have been included to attach to a decision.

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. Severance Sketch