



Meeting Date: September 18, 2024

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Report No: PLA-41-2024

Subject: Application for Zoning By-law Amendment (ZBA-09-2024) for 14387 Ilderton Road; Filed by Brown Beattie O'Donovan LLP on behalf of Farhi Farming Corporation

Recommendation:

THAT Zoning By-law Amendment Application (ZBA-09-2024), filed by Brown Beattie O'Donovan LLP on behalf of Farhi Farming Corporation, to rezone the lands known as 14387 Ilderton Road from 'Agricultural (A1)' to 'Surplus Residence exception 12 (SR-12)' and 'Agricultural – No Residences (A3)' for the severed and retained lands of consent application B-20/23, be APPROVED.

Purpose:

The purpose of this report is to provide Council with a recommendation regarding a rezoning application for a property located on the southeast corner of Ilderton Road (County Road 16) and Richmond Street (Provincial Highway 4). The subject property is legally described as Concession 10 Pt Lot 16, Municipality of Middlesex Centre (geographic Township of London) and known municipally as 14387 Ilderton Road.

A location map is included as Attachment 1.

Background:

The purpose of the subject rezoning application is for Council to consider an amendment through Ontario Land Tribunal decision OLT-24-000056, as a result of Minutes of Settlement, for Consent file B-20/2023. The decision conditionally severs a lot with an area of approximately 2 ha (4.99 ac) and a frontage of 28.96 m (95 feet) in order to accommodate a surplus farm residence. The retained parcel is proposed to be approximately 36.4 ha (90 ac) with a broken frontage of approximately 446.5 m (1,465 ft) on Ilderton Road.

The effect of the subject application is to rezone the severed lot from the 'Agricultural (A1)' zone to the 'Surplus Residence exception 12 (SR-12)' zone to permit the non-farm dwelling on a parcel with a reduced frontage, and the retained lot from the 'Agricultural – No Residences (A3)' to prohibit new residential uses from establishing on the agricultural parcel.

The associated consent application (B-20/23) is subject to a decision made by the Ontario Land Tribunal on May 21, 2024. The decision and the conditions of consent are attached to this staff report as 'Attachment 2'.

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. 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 the Ontario Land Tribunal in May 2024. The application for rezoning would rezone the provisionally granted severed lot from the 'Agricultural (A1)' zone to the 'Surplus Residence exception 12 (SR-12)' zone to recognize the existing, non-farm residential use and reduced frontage.

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:

Staff did not receive comments from area residents or stakeholders at the time of writing this staff report.

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 related to the rezoning application. All requests have been included as conditions of the severance application.

The Municipality's Public Works and Engineering Department reviewed the application and did not have any comments related to the rezoning application. All requests have been included as conditions of the severance application.

Analysis:

As a result of the severance for a surplus farm dwelling (File: B-20/23), the application requests to rezone the severed lot to 'Surplus Residence exception (SR)' zone and the retained lot to 'Agricultural – No Residences (A3)' zone. 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. Planning Staff continue to maintain our opinion of the severance application and that the severed lot does not meet the policies of the PPS and official plans. Planning Staff will implement the decision of the OLT and seek to protect agricultural lands for long-term agricultural use, and prevent fragmentation of farmland through the rezoning application.

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 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 retained parcel appears to meet the provisions of the requested 'Agricultural – No Residences (A3)' zone. The proposed severed parcel does not meet the minimum lot frontage for the general 'Surplus Residence (SR)' zone, therefore, staff recommend a site-specific exception to recognize the reduced lot frontage of 28.96 m (95 ft).

Given the above, Planning Staff recommend that the subject application be approved, as the rezoning 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.

Attachments:

Attachment 1 – Location Map

Attachment 2 – OLT Decision, May 21, 2024