

Meeting Date: March 24, 2021

Submitted by: Dan FitzGerald MPI, Planner

Report No: PLA-19-2021

Subject: Consent Application B-26/2020, 131 Harris Road, Delaware

Recommendation:

THAT Consent Application B-26/2020, filed by Phil Pattyn, in order to sever a residential lot with a frontage of approximately 36.1 m (118.4 ft) on Harris Road, a depth of approximately 100 metres (328 feet), and an area of approximately 3,610 m² (0.89 ac), and the retained a frontage of approximately 20 m (66 ft) on Harris Road and an area of approximately 12.15 ac (4.92 ha) on a property legally described as Part of Lot 15, Plan 305 in the Municipality of Middlesex Centre, County of Middlesex and, Municipally known as 131 Queen Street; be GRANTED;

AND THAT Consent B-26/2020 be subject to the following conditions:

1. That the Certificate of Consent under Section 53(42) of the *Planning Act* shall be given within one year 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-26/2020 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 severed and retained lots of Consent B-26/2020 be paid in full.
7. That the Owner provides a lot grading plan prepared by a Professional Engineer that includes appropriate grades at property boundaries and the four corners of a building envelope. The lot grading plan shall indicate a suitable building area that meets the required setbacks from the overhead electrical lines servicing neighbouring properties. The electrical lines and setbacks shall be shown on the grading plan, if applicable.
8. That the Owner enter into a Development Agreement with the Municipality, and that the Agreement be registered against the title of the subject land, to address among other matters: all financial, legal, planning and engineering matters including but not limited to payment of the Municipality's engineering, legal and planning review costs, entrance locations and construction, works within the road allowance, lot grading and drainage plans, and building envelopes, all to the satisfaction of the Municipality.
9. That the lot shall be serviced with Municipal water at the expense of the Owner prior to consent being granted to the satisfaction of the Municipality.
10. That any existing water or sanitary systems be removed or relocated so that they are wholly contained on the retained lands to the satisfaction of the municipality.
11. That a demolition permit be obtained for the removal of the existing single unit dwelling and any / all structures associated with this structure be removed from the severed lands, including and well or septic systems.
12. That the Owner be required to provide a stormwater management plan and servicing plans to the satisfaction of the Municipality.
13. That the Owner be required to provide a groundwater impact assessment.
14. That the Owner be required to provide a road widening dedication in the amount of up to 10 m from the centreline of construction of Harris Road prior issuance of the Certificate of Consent.
15. That the Owners pay \$1,100 cash-in-lieu of parkland dedication for the proposed lot of Consent B-26/2020.
16. That the Owner be required to rezoned both the severed and retained lands and that a zoning by-law amendment be in full force and effect prior to the issuance of a Certificate of Consent;

AND FURTHER THAT the reasons for granting Consent application B-26/2020 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 the north side of Harris Road, west of the intersection at Harris Road and Martin Road in Delaware.

A location map is included as Attachment 1.

Background:

The purpose and effect of the consent application is to create a new residential lot for the purpose of constructing one single-detached dwelling. The lot proposed to be severed would have a frontage of approximately 36.1 m (118.4 ft) on Harris Road and an area of approximately 3,610 m² (0.89 ac), and the retained would have a frontage of approximately 20 m (66 ft) on Harris Road with an area of 12.15 ac (4.92 ha).

An illustration of the proposal is included as Attachment 2.

The subject land currently contains a single detached dwelling on private services. The lands are surrounded predominately by residential development in the form of large lot single detached dwellings, and a natural heritage feature to the north.

Policy Regulation:

The subject property is located within a Settlement Area according to the County of Middlesex Official Plan and is designated Residential by the Middlesex Centre Official Plan. Additionally, the land is zoned Existing Use (EU) Zone in the Middlesex Centre Comprehensive Zoning By-law.

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 transit-supportive development, accommodating a significant supply and range of housing

options through 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 accommodate forecasted growth in a manner that promotes the efficient use and optimization of existing municipal sewage services and municipal water services'.

County of Middlesex Official Plan:

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:

Middlesex Centre's Official Plan designates the subject lands as 'Residential'. Within this designation residential dwellings are permitted in a variety of forms, including single detached dwellings.

Section 9.3 of the Local Official Plan speaks to municipal infrastructure and servicing policies. These policies have a similar hierarchy as the PPS and the County Official Plan.

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 mantle.
- 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.

Section 11.0 of Middlesex Centre's Official Plan speaks to Special Policy Areas. The subject lands are located in Special Policy Area #3. As such the following policies are applicable:

For lands so identified on the Delaware Community Settlement Area (Schedule A-4), notwithstanding the residential policies of this Plan, are subject to the following policies:

- a) The Municipality is committed to the provision of municipal sewage services to service existing and future development in this area in the long term as indicated in the Delaware Water and Wastewater Servicing Study prepared by Dillon Consulting dated May 31, 2005, being Phases 1 and 2 of the Municipal Class

Environmental Assessment. In this regard, the Municipality shall move forward with the subsequent phases of the full Class Environmental Assessment process.

- b) Development within this area on municipal water and private on-site septic systems shall be restricted to lands located on existing road right-of-ways, being Harris Road, Martin Road and Wellington Street. Such development should not preclude the efficient use of land should municipal sewage services become available.
- c) Development shall adhere to the extent feasible and practicable with the conceptual area plan as described in the August 1997, "Delaware Village Area Plan and Environmental Management Study" prepared by Delcan Corporation which includes new road allowances to ultimately provide access for the internal lands namely those not situated on existing road right-of-ways and areas suitable for stormwater control structures.
- d) The development restrictions which limit development to lands located on existing road right-of-ways shall be removed upon this area being serviced by municipal sewage services. The development of the internal lands, being those not located on existing road right-of-ways, shall adhere to the extent feasible and practicable to the generalized street pattern as outlined to in the August 1997, "Delaware Village Area Plan and Environmental Management Study" prepared by Delcan Corporation.
- e) The creation of lots which do not extend along the entire frontage of a property on existing road right-of-ways (with the exception of new road allowances to ultimately provide access for the internal lands) shall be prohibited.
- f) No lots may be developed on existing right-of-ways without confirmation that the lots can accommodate an appropriate septic system, sewage envelope and contingency area as outlined in Section 10.3.1b) of this Plan.
- g) The lands must be graded to control storm water run-off quantity and quality in accordance with a grading plan approved by the Municipality. No lots may be developed without confirmation that the creation of the lots will not prejudice future storm water management efforts of the area and depending on the scale of the development, the Municipality may request the preparation of a Storm Water Management Study to be completed to the satisfaction of the Upper Thames River Conservation Authority prior to development preceding.
- h) The Municipality shall initiate a groundwater monitoring program to determine the impacts of existing septic systems on ground and surface water. Notwithstanding the other policies of SPA #3, development within this area may be prohibited if ground water nitrate levels are found to be at an unacceptable level by the Ministry of Environment and the Municipality.

Middlesex Centre Zoning By-law:

The subject property is zoned Existing Use (EU) Zone. Permitted uses in the zone only include those that exist as of the date of the passing of the by-law.

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;

Bell Canada: has no concerns with Application for Consent B 26-2020.

Enbridge Gas Inc.: Enbridge Gas Inc. may have service lines running within the area which may or may not be affected by the proposed severance. Should the proposed severance impact these services, it may be necessary to terminate the gas service and relocate the line according to the new property boundaries. Any Service relocation required due to a severance would be at the cost of the property owner.

Hydro One: we have reviewed the documents concerning the noted application and have no comments or concerns at this time.

Development Review Coordinator: the lot shall be serviced with water prior to consent being granted. A stormwater management plan, grading plan and servicing plan are required. A groundwater impact assessment will also be required. Road widening up to 10 metres from the centerline of construction shall be provided.

Analysis:

As noted, the subject property is located within a 'Settlement Area' according to the County of Middlesex Official Plan. More specifically, the land is situated in the Delaware Settlement Area and is designated Residential by the Middlesex Centre Official Plan and also located in special policy area #3 as indicated previously. It is zoned Existing Use (EU) Zone by the Middlesex Centre Comprehensive Zoning By-law.

The Planning Policies have a servicing hierarchy in which the preferred option for new development within settlement areas is full municipal servicing. The proposed lot to be severed and the lot to be retained will be serviced by municipal water. Given existing

constraints on sanitary services, the lots would need to accommodate private sanitary services. While generally private services are not supported for lands located within settlement areas, special policy area #3 subsection b) makes exceptions for private sanitary services for lots with frontages on existing and established rights of way, in this case being Harris Road. The applicant submitted a preliminary sanitary design report which has been reviewed by Public Works and Engineering. It was determined that the proposed lot size is capable of functioning on private septic. Additionally, as a condition of consent, the Owner will be required to provide all necessary servicing plans prior to the issuance of a Certificate of Consent.

The subject property abuts a municipal road, and therefore no road extension is required. Additionally, existing services are available for the proposed property on Ontario Ave.

Infill development is supported by the policies of the Provincial Policy Statement, the County of Middlesex Official Plan and the Middlesex Centre Official Plan. The proposed infill development represents a more efficient use of land in a Settlement Area of the Municipality that will utilize municipal water. Intensification through infill 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. The subject property is in an appropriate location for intensification and would promote compact form and more appropriate development standards for residential lots having access to full municipal services. Also the proposed boundaries for consent leave an appropriate amount of space for the potential installation of a road should future sanitary services be installed in Delaware to support future expansion.

The Existing Use (EU) zone that applies to requires that the lot is maintained in its current state. As such a condition of consent has been added that should Council permit a severance, the Owner be required to rezone the lands prior to the Certificate of Consent being issued.

A number of technical items have been identified through the review of the application and staff recommend that these be addressed through conditions of approval. The items include, among others, the entering into a development agreement, the provision a municipal water service, provision of a lot grading and building envelope plan, as well as a stormwater management plan.

Given the above, planning staff are recommending that the subject application 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, the 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:

1. Location Map
2. Proposed Severance Plan
3. Preliminary Servicing Assessment