



Meeting Date: September 22, 2021

Submitted by: Marion-Frances Cabral, Planner

Report No: PLA-79-2021

Subject: Applications for Official Plan Amendment (OPA 55) and Zoning By-law Amendment (ZBA-13-2021), filed by Everleigh Homes Inc. on behalf of Sandra Mayo

Recommendation:

THAT the Official Plan Amendment No. 55 for the land legally described as Concession 2 Part of Lots 9 and 10 RP 33R17757 Parts 1 to 9 (former Township of Delaware), Municipality of Middlesex Centre, be ADOPTED and forwarded to the County of Middlesex for consideration of approval;

AND THAT the Zoning By-law Amendment application, filed by Everleigh Homes Inc. on behalf of Sandra Mayo, to rezone the subject property from the 'Agricultural (A1)' zone to the site-specific 'Agricultural (A1-36)' zone for the property legally described as Concession 2 Part of Lots 9 and 10 RP 33R17757 Parts 1 to 9 (former Township of Delaware), Municipality of Middlesex Centre, be APPROVED.

Purpose:

The purpose of this report is to provide Council with a recommendation regarding an Official Plan Amendment and Zoning By-law Amendment for a property located on the north side of Sharon Drive and on the east side of Carriage Road.

A location map is included as Attachment 1.

Background:

The purpose and effect of the Official Plan Amendment application is to re-designate the subject property from the Agricultural designation to an Agricultural Special Policy Area designation to allow a second dwelling unit in an accessory building (garage).

The purpose and effect of the Zoning By-law Amendment application is to rezone the subject property from the Agricultural (A1) zone to a site-specific Agricultural (A1-36) zone to permit a second dwelling unit within an accessory building (garage), and to permit an

accessory building that has a maximum height of 7.0 m (23 ft) and a maximum gross floor area of 192.8 m² (2, 075 ft²).

The Zoning By-law currently permits accessory buildings with a maximum height of 6.5 m (21.3 ft) and maximum gross floor area of the lesser of 3% lot coverage in any Agricultural Zone or 165.0 m² (1, 776 ft²) of gross floor area for accessory buildings located on a lot with an area greater than 5,000 m² (1.25 ac). The Zoning By-law amendment would continue to permit the existing permitted uses listed in Section 5.1.1 of the Zoning By-law.

The subject lands are currently vacant of any buildings or structures and is actively cultivated. The lands also abut Sharon Creek and contains regulated area and Significant Woodland on the northern and eastern portion of the land. The lands are approximately 16.72 ha (41.3 ac) in area and is located on the north side of Sharon Drive and on the east side of Carriage Road. The property is legally described as Concession 2 Part of Lots 9 and 10 RP 33R17757 Parts 1 to 9 (former Township of Delaware).

The applicant is proposing to construct a new single storey, accessory building approximately 15 m (49 ft) from the main dwelling. The accessory building contains a three-car garage oriented to face Sharon Drive. The garage will be approximately 89.3 m² (961 ft²) in area, and the dwelling unit located to the rear of the garage will be approximately 103.6 m² (1,115 ft²) in area. The applicant proposes a shared septic tank between the main dwelling and accessory dwelling.

Policy Regulation:

Planning Act

Section 16(3) of the Planning Act authorizes Official Plans to contain policies that permit additional residential units and provides the following:

“An official plan shall contain policies that authorize the use of additional residential units by authorizing,

- a) the use of two residential units in a detached house, semi-detached house, or rowhouse; and
- b) the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse.”

Additionally, Section 35.1 requires that council of each local municipality to pass by-laws under section 34 (Zoning by-laws) to give effect to the policies described in subsection 16(3).

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 following PPS policies are relevant to the proposed development and need to be considered when evaluating the subject applications.

Section 1.1.1 of the PPS speaks to ‘Healthy, liveable and safe communities’ and how they can be sustained. Section 1.1.1b) states that ‘accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs’.

Section 1.4 of the PPS speaks to ‘Housing’ and the requirement ‘to provide for an appropriate range and mix of housing options and densities required to meet projected requirements of current and future residents of the regional market area’.

Section 1.6.6 of the PPS outlines the hierarchy for sewage and water services. Generally, the preferred method of servicing is municipal services, however consideration can be given to private and communal services where appropriate, and where supported by appropriate studies.

Section 2.3 of the PPS speaks to prime agricultural areas and the long-term protection of these areas for agricultural use. Permitted uses within prime agricultural areas include: agricultural uses, agricultural-related uses, and on-farm diversified uses. Policy 2.3.6 of the PPS addresses non-agricultural uses in prime agricultural areas. The PPS directs that limited non-residential uses may be permitted within a prime agricultural area subject to evaluation criteria.

Middlesex County’s Official Plan

The County of Middlesex Official Plan designates the subject property as Agricultural Area. The County Plan recognizes agriculture as the predominant land use and an economic mainstay within the County. The Agricultural policies are intended to protect agricultural lands from the intrusion of land uses that are not compatible with agricultural operations.

Section 4.3 of Middlesex County’s Official Plan speaks to local Official Plans and indicates that the County Official Plan is not intended to prevent the development of areas designated for non-agricultural development in local Official Plans. The County Plan does not specifically address a proposal such as this. Instead, the County Plan leaves atypical proposals to be addressed within local Plans and through the local Official Plan Amendment process.

Section 2.3.7 of the County of Middlesex Official Plan speaks to housing policies and states that, it is the policy of the County to encourage a wide variety of housing by type,

size and tenure to meet projected demographic and market requirements of current and future residents of the County.

The County of Middlesex's Official Plan in section 2.4.5 discusses the servicing hierarchy similar to those discussed in the PPS.

Middlesex Centre's Official Plan

As mentioned the subject property is designated 'Agricultural' by Middlesex Centre's Official Plan. The designation of the subject lands permits primarily agricultural uses and residences surplus to a farming operation.

Section 5.2.1 of Middlesex Centre's Official Plan speaks to General Residential Policies, section 5.2.1 a) states, 'The Municipality will provide and encourage a wide variety of housing types, sizes and tenures to meet demographic and market requirements for the Municipality's current and future residents'.

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. As it relates to this proposal section 9.3.2 a) states, 'the principle means of sewage disposal in agricultural areas of the Municipality is the septic tank and weeping tile system. It is anticipated that such systems will continue to be the principal means of sewage disposal outside of settlements in the foreseeable future, however the consideration of alternative and improved technologies is encouraged.

Section 9.6.1 of Middlesex Centre's Official Plan states it is policy of this Plan that the conversion of an existing principal farm dwelling to add a second unit may be permitted, subject to the requirements within the existing building, and will not require an addition to facilitate the conversion.

Section 9.7 of the Municipality's Official Plan states that 'new garden suites will not be permitted within the Municipality. Garden Suites are temporary housing on a property and above the primary residence.

In Section 10.1 of the Official Plan it is noted that the Plan may be amended upon consideration of all relevant issues relating to the public interest. It is further noted that the Municipality shall give consideration to the following criteria:

- a) Does the proposed amendment relate and conform to the vision for the Municipality of Middlesex Centre?
- b) Is there a demonstrated need or justification for the proposed change?
- c) Is the amendment in keeping with the Provincial and County policy?
- d) What are the effects of the proposed change on the demand for Municipal services, infrastructure, and facilities?

- e) Can the land affected by the application be adequately serviced to accommodate the proposed development? Are improvements necessary to adequately service the lands in question?
- f) What impacts will the proposed development have on surrounding land uses, traffic systems, infrastructure and servicing, settlement or Municipal character, features or structures of cultural heritage importance, and natural environment features? Can negative impacts be mitigated or eliminated?

Middlesex Centre's Zoning By-law

The subject property is zoned 'Agricultural (A1)' in Middlesex Centre's Zoning By-law. The current zoning permits a converted dwelling for a maximum of 2 units, although it does not permit an additional residential unit in an accessory building.

Section 4.1 of the Zoning By-law outlines standards for buildings or structures accessory to a dwelling in an Agricultural zone. The maximum height of a building accessory to a dwelling shall not exceed 6.5 m (21.3 ft) and the lot coverage and gross floor area shall not exceed the lesser of 3% of the lot coverage of 165 m² (1,776.05 ft²) of gross floor area for accessory buildings located on a lot with an area greater than 5,000 m² (1.25 ac). For the subject property the less is 165 m² (1,776.05 ft²).

Consultation:

Notice of Complete Application and Public Meeting were circulated to agencies, as well as property owners in accordance with the *Planning Act* and Ontario Regulation 545/06 and 543/06.

Agency Comments:

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

The Municipality's Chief Building Official reviewed the applications and has concerns with the proposed amendments.

The Public Works and Engineering Department reviewed the applications and has no concerns with the proposal amendments.

Lower Thames Valley Conservation Authority did not provide comments at the time of writing this report.

Analysis:

The current Middlesex Centre Official Plan does not contain policies that permit secondary suites or additional residential units in primary or accessory buildings. However, the Planning Act and PPS authorizes municipalities to establish policies that permit additional residential units where appropriate to meet the housing needs of the community.

As mentioned above the Middlesex Centre Official Plan does not permit secondary or additional residential units within the Municipality, and only permits converted dwelling units in Agricultural Areas. An amendment to the Official Plan requires the following criteria to be examined:

a) Does the proposed amendment relate, and conform to the vision for the Municipality of Middlesex Centre?

The proposed amendment supports the Municipality's vision of providing a variety of housing types for current and future residents, as well as using resources wisely in terms of utilizing private services. Furthermore, Additional Residential Units will be part of the Municipality's Official Plan Review as they are permitted by the Planning Act and the Provincial Policy Statement.

b) Is there a demonstrated need or justification for the proposed change?

The subject lands are currently vacant and the applicant is proposing to construct a single detached dwelling and accessory building (detached garage). Given the zoning of the property, a single detached dwelling is permitted, however, an additional residential unit in an accessory building is not permitted by either the Official Plan or Zoning By-law. The proposal is justified by providing another form of housing to the applicants. The intent of additional residential units is to provide supplementary income to the homeowner, provide other forms of housing, as well as assisting family members when it comes to housing requirements for aging relatives.

c) Is the amendment in keeping with the Provincial and County policy?

The proposal conforms to the PPS and both the County and Local Official Plans as the proposal is contributing to a variety of housing types, accommodated by private services, which is a supported form of servicing under the PPS when full municipal services are not available. Furthermore, additional residential units are supported by the Planning Act and the Provincial Policy Statement where additional residential units are permitted by municipalities across Ontario.

Further, the proposed septic system will be shared between the main and the additional dwelling unit which will preclude the severance of a residential lot within an agricultural area.

d) What are the effects of the proposed change on the demand for Municipal services, infrastructure, and facilities?

The subject property is proposed to be serviced by private services and there is no intended increase on the demand of Municipal services.

e) Can the land affected by the application be adequately serviced to accommodate the proposed development? Are improvements necessary to adequately service the lands in question?

There are no improvements necessary to adequately service the subject property. The applicant will be required to service the proposed dwelling and accessory building with private services, which will be discussed during the building permit stage. Private sewage disposal systems of this nature are governed by the Ontario Building Code.

f) What impacts will the proposed development have on surrounding land uses, traffic systems, infrastructure and servicing, settlement or Municipal character, features or structures of cultural heritage importance, and natural environment features? Can negative impacts be mitigated or eliminated?

The proposed additional residential unit will have minimal impact to the surrounding agricultural operations and lands, and traffic system. The accessory building is proposed to have the garage oriented towards the road to minimize the appearance of the additional residential unit and is located within proximity to the main dwelling.

During preconsultation staff noted that there is a presence of natural heritage features including a Significant Woodland located on the northern and eastern portion of the property. Additionally, regulated area exists on the northern portion due abutting Sharon Creek and the southwestern portion near the intersection of Carriage Road and Sharon Drive. The proposed single detached dwelling and accessory building, including the septic system, are proposed to be located outside of the regulated areas and natural heritage system to avoid negative impacts.

Upon review of the plans for the accessory building staff noted the proposed does not conform to the zoning by-law. Specifically Section 4.1 that regulates the lot coverage and height for structures accessory to a dwelling in an Agricultural (A1) zone. The proposed accessory building that contains the additional residential unit is design to be approximately 7.0 m (23 ft) in height where 6.5 m (21.3 ft) is permitted and a gross floor area of 192.83 m² (2, 075.6 ft²) or 0.11% of the lot coverage where 165 m² (1,776 ft²) is permitted.

The lot coverage for the additional dwelling unit can be considered appropriate as the additional residential unit is also combined with a garage and is not expected to have negative impacts on surrounding lands. If the additional residential unit was not proposed, the accessory structure would have met the standards of the zoning by-law. Similarly, the proposed three garage spaces are to minimize the appearance and impact of the additional residential unit.

The height of the additional dwelling unit is proposed to be 0.5 m (1.64 ft) taller than what is permitted due to the proposed roof line that is consistent with the main dwelling. The requested and is also not anticipated to have negative impacts on the surrounded area and continues to meet the intent of the zoning by-law and official plan. Further, the applications seek to utilize the property for residential purposes, therefore, there are no anticipated impacts on surrounding land uses, infrastructure, traffic, municipal character and/or natural features.

Given the above, planning staff determined that the requested zoning by-law amendment and official plan amendment are consistent with the Provincial Policy Statement, 2020, the County of Middlesex Official Plan, Middlesex Centre's Official Plan, and Middlesex Centre's Zoning By-law.

Staff recommend that the Official Plan Amendment be adopted as proposed and be forwarded to the County of Middlesex for consideration. Additionally, staff recommend that the zoning by-law amendment to permit a secondary unit in an accessory building and an accessory building with a maximum height of 7.0 m (26 ft) and a maximum lot coverage of 193 m² (2, 077.4 ft²) 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 applications.

Financial Implications:

None.

Strategic Plan:

This matter aligns with following strategic priorities:

- Balanced Growth

Attachments:

Attachment 1 – Location Map

Attachment 2 – Proposed site plan of home and accessory building

Attachment 3 – Proposed floor plan and elevation of accessory building

Attachment 4 – Draft Official Plan Amendment No. 55