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**Date:** November 1, 2018

**To:** Mayor and Council

**Author:** Kristina Brcic, Town Planner

**RE:** ZBA/28/18 Application for Zoning By-law Amendment by  
Esther Vanderheyden for the Estate of Egbert Kruis  
Part of Lot C, Concession 2, Western Division  
1577 Road 3 West  
Roll No. 3711 380 000 01200

**Report No.:** PDS 2018-056

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## **AIM**

To provide the Town of Kingsville Council with information regarding the requested Zoning By-law Amendment for lands known as 1577 Road 3 East, Part of Lot C, Concession 2, WD, as a condition of consent under file B/06/18.

## **BACKGROUND**

The parcel is 20.7 ha (51.19 ac.) in size and consists of a single detached dwelling, three outbuildings and vacant farmland. At the July 17, 2018 Committee of Adjustment meeting, provisional consent (B/06/18) was given to sever an existing dwelling and outbuildings, deemed surplus to the prospective purchaser.

As a condition of that consent, it is required that the retained parcel be rezoned to 'Agriculture- Restricted (A2)' to prohibit the construction of future dwellings. This condition is required by both Provincial and Town policies.

## **DISCUSSION**

When considering a request for a Zoning By-law Amendment, it is important to review the request on the basis of the following documents to determine whether the request is appropriate:

## **1) Provincial Policy Statement, 2014 (PPS):**

When reviewing a planning application to determine if it represents sound planning, it is imperative that the proposed development is consistent with the Provincial Policy Statement (PPS): “The Provincial Policy Statement provides policy direction for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment.”

Section 2.3.4.1 states:

*Lot creation in prime agricultural areas is discouraged and may only be permitted for:*

*c) a residence surplus to a farming operation as a result of farm consolidation, provided that:*

- 1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and*
- 2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective.*

Comment: The existing dwelling on the subject farm parcel was severed as a residence surplus to the needs of the prospective purchasers farming operation. Therefore, the requested Zoning By-law Amendment from ‘Agriculture (A1)’ to ‘Agriculture – Restricted (A2)’ will ensure that the severance is consistent with the PPS by prohibiting any new residential dwelling on the remnant parcel but still allow for farming operations to continue. Part of the potential continuation of farming operations may involve the development of greenhouses which often includes bunkhouses. As a matter of clarification it is not the intention of PPS to prohibit a bunkhouse as it is not a traditional dwelling and would not provide the opportunity to lead to additional severance from the subject property.

## **2) Town of Kingsville Official Plan**

The subject land is designated ‘Agriculture’ within the Official Plan for the Town of Kingsville. Section 3.1, pertaining to lands designated ‘Agriculture’, establishes goals to preserve prime agricultural land for agricultural purposes and restricts the type and amount of non-farm development in ‘Agriculture’ designated areas. Additionally, Section 7.3.1, pertaining to Agriculture Land Division, permits the severance of a dwelling that is considered surplus to the needs of the farm operation conditional on the remnant parcel resulting from the severance being rezoned to prohibited new residential dwellings.

Comment: The requested Zoning By-law Amendment conforms to the relevant policies of the Official Plan for the Town of Kingsville.

### **3) Comprehensive Zoning By-law 1-2014**

The subject land is currently zoned 'Agriculture (A1)' in the Comprehensive Zoning By-law for the Town of Kingsville. As a condition of the consent the Zoning By-law Amendment to 'Agriculture – Restricted (A2)' will prohibit new dwellings on the retained farmland as required by both the Official Plan and Provincial Policy.

Subsection 7.2 of the Kingsville Zoning By-law outlines the permitted use of the 'Agriculture-Restricted (A2)' zone and as it is currently worded is somewhat contradictory regarding the extent to which residential uses are restricted in this zone. The permitted uses appear to continue to permit uses accessory to or supportive of a greenhouse which would include a bunkhouse. However, the supplemental regulations appear to restrict all residential uses including bunkhouses. Staff has reviewed this section and while it is agreed that this section should be clarified it is not the intention of the surplus dwelling policies to prevent a supportive use as bunkhouses or other labour housing needs on the farm. The intent is to prevent additional single detached dwellings which can lead to additional severance requests. This is very evident by the multiple severance that have occurred along the frontage of the subject property.

#### **LINK TO STRATEGIC PLAN**

Manage growth through sustainable planning.

#### **FINANCIAL CONSIDERATIONS**

There is no financial impact as a result of this zoning amendment.

#### **CONSULTATIONS**

##### **1) Public Consultations**

In accordance to O. Reg 545/06 of the Planning Act, property owners within 120m of the subject site boundaries received the Notice of Public Meeting by mail.

A number of comments have been submitted along with consultation in office with staff regarding the pending zoning and approved severance from July. Much of the concern has centered around the potential future use of the retained parcel particularly for potential greenhouse development. Letters received have been attached as Appendix C.

Comment: The future use of any retained parcel resulting from the severance of a surplus dwelling is governed by the Kingsville Comprehensive Zoning By-law. At present a greenhouse is a permitted use. If approved the zoning of the subject property will continue to permit a greenhouse on the retained lands as it would also continue to permit other agricultural uses and buildings. This policy related to the severance of surplus dwellings has not changed since 2005. If the purchaser of the retained farm parcel does choose to construct a greenhouse in the future it will require site plan approval. This approval may require additional supportive background studies including but not limited to environmental assessment, species at risk screening, storm water management, servicing confirmation, traffic impact and ERCA approval.

Greenhouses, like most development require certain supportive services such as water, hydro and natural gas. Lands west of Division Rd N have not traditionally offered adequate capacity from any of these services limiting any type of large scale development in this area. There are no current plans to expand Town services west of Division Rd N and any expansion, upgrading or replacement of other services in this area would generally be the responsibility of the land owner seeking to develop.

## 2) Agency & Administrative Consultation

In accordance with O. Reg 545/06 of the *Planning Act*, Agencies and Town Administration received the Notice of Public Meeting by mail and/or email.

| Agency or Administrator             | Comment  |
|-------------------------------------|--|
| Essex Region Conservation Authority | <ul style="list-style-type: none"><li>No objections. (See Appendix B).</li></ul>         |
| Town of Kingsville Management Team  | <ul style="list-style-type: none"><li>No concerns with the requested rezoning.</li></ul> |
| County of Essex                     | <ul style="list-style-type: none"><li>No comments expected.</li></ul>                    |

## RECOMMENDATION

It is recommended that Council approve Zoning By-law Amendment application ZBA/28/18 to rezone the retained farm lands as a condition of consent File B/06/18 from 'Agriculture (A1)' to 'Agriculture – Restricted (A2)' located in Part of Lot C, Concession 2, WD, locally known as 1577 Road 3 East in the Town of Kingsville, and adopt the implementing by-law.

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Town Planner

Robert Brown

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Peggy Van Mierlo-West

Peggy Van Mierlo-West, C.E.T.  
Chief Administrative Officer