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**Date:** January 15, 2020

**To:** Mayor and Council

**Author:** Kristina Brcic, MSc, BURPI  
Town Planner

**RE:** Combined Application for Consent & Zoning By-Law Amendment  
File B/26/19 & ZBA/26/19 by  
Paul & Beverly Chortos  
1321 County Rd 20, Part of Lot 21, Concession 1, WD  
Roll No. 3711 280

**Report No.:** PS 2020-005

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## **AIM**

To provide the Mayor and Council with information regarding the consent to sever an existing dwelling deemed surplus to the farming operation of the purchaser and a required Zoning By-law Amendment to prohibit additional dwellings on the retained farm parcel, in addition to a land conveyance to the Essex Region Conservation Authority (ERCA), for lands known as 1321 County Road 20.

## **BACKGROUND**

The Town of Kingsville has received the above-noted applications for lands located on the south side of County Road 20, west of McCain Side Road. The subject property is designated 'Agriculture' by the Official Plan and is split zoned 'Agriculture (A1)' and 'Wetland (WE)' (shown on the zoning map attached in Appendix B) under the Kingsville Comprehensive Zoning By-law.

The subject land is a 38.68ha (95.58 ac.) farm parcel and contains a dwelling and outbuilding. The owners have entered into a purchase agreement with the neighbouring landowner to the east for the purchase of the farmland. The dwelling and outbuilding on the farm are surplus to the prospective purchaser. The owners are proposing to retain the dwelling along with 5 ha (12.36 ac.) all north of Cedar Creek.

Because the property is bisected by Cedar Creek it presents a challenge for both severing the dwelling and maintaining frontage along County Road 20 for the retained farm parcel. To overcome this issue the purchaser is conveying a 15.24 m (50 ft.) wide strip of land

from their abutting property to the east (1219 County Road 20) as a lot addition including along with establishing a right-of-way for access over their existing driveway which, at the time of writing, is subject to approval under Consent Application B/27/19.

In addition to the dwelling severance the applicants are proposing to convey 5.63 ha (13.93 ac.) (shown as Part 3 on the draft sketch) to ERCA who also owns lands to the east and south as part of the above noted consent application as a right-of-way is being established to these lands for access from County Road 20.

As a condition of the consent, an application to amend the zoning on the property is required to address the following:

- i) rezone the retained farm parcel (shown in red on the location map) from 'Agricultural (A1)' to 'Agriculture - Restricted (A2)' to prohibit dwellings as per Provincial and Town policies;
- ii) recognize the reduced frontage of the retained farm parcel;
- iii) rezone a portion of Part 3 the ERCA lands to 'Wetland (WE)' to match the surrounding lands, and
- iv) extend the existing 'Wetland (WE)' zone on a portion of the proposed severed parcel to include the lot addition lands being conveyed as part of consent application B/27/19

## **DISCUSSION**

When considering a severance request, it is necessary to review the application in context of the following documents to determine the appropriateness of the request:

### **1.0 Provincial Policy Statement**

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). Section 2.3.4.1(c) permits, "*a residence surplus to a farming operation as a result of farm consolidation,*" to be severed, "*provided that the planning authority ensures that new residential dwellings are prohibited on any vacant remnant parcel of farmland created by the severance.*"

Comment: The application is *consistent with* the PPS definition of *a residence surplus to a farming operation* and future dwellings will be prohibited on the retained farm parcel as a condition of consent, in that the retained parcel must be rezoned to "Agriculture - Restricted (A2)".

The subject property contains natural heritage features including wooded area and is partially identified as a Provincially Significant Wetland by the County Official Plan. Section 2.1.4 states "*development and site alteration shall not be permitted in significant wetlands*". Section 2.15 states "*development and site alterations shall not be permitted... [in significant lands] ... unless it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions*". Section 2.1.8 states "*development and site alteration shall not be permitted on adjacent lands to the natural heritage features...*".

Comment: In order to maintain no negative impact on the subject lands, the applicant is required, as per ERCA request, to rezone the natural heritage features and associated significant areas to Wetland (WE) which prohibits development. This includes the prohibition of access over the lot addition lands that are being added to the retained farm parcel as part of consent B/27/19.

## **2.0 Official Plan**

The Official Plan for the Town of Kingsville designates the severed and retained lands as 'Agriculture'.

The requested consent to sever the surplus dwelling conforms to the policies of Section 7.3.1, Agriculture Land Division, of the Official Plan. The proposed surplus dwelling lot is 5 ha (12.361 ac.) where the Official Plan outlines a size limit of 0.8 ha (1.977 ac.) or less.

Comment: As noted in the Background section of the report the severance of the existing dwelling is complicated by its location from County Road 20, the presence of Cedar Creek, and the Provincially Significant Wetland.

## **3.0 Comprehensive Zoning By-law – Town of Kingsville**

The severed parcel, shown as Part 1 on the applicant's sketch, has an area of 5.002 ha (12.361 ac.)

The retained farm parcel will have an area of approximately 28.75 ha (71 ac.) including the new lot addition as a result of Consent File B/27/19, and provides a frontage of 15.24 m (50 ft.) on County Road 20. The undersized lot frontage will be addressed in the zoning amendment.

The subject property is presently zoned 'Agriculture (A1)' in the Comprehensive Zoning By-law. The proposed amendment will:

- i) rezone the retained farm parcel (shown in red on the location map) from 'Agricultural (A1)' to 'Agriculture - Restricted (A2)' to prohibit dwellings as per Provincial and Town policies;
- ii) recognize the reduced frontage of the retained farm parcel;
- iii) rezone a portion of Part 3 the ERCA lands to 'Wetland (WE)' to match the surrounding lands, and
- iv) extend the existing 'Wetland (WE)' zone on a portion of the proposed severed parcel to include the lot addition lands being conveyed as part of consent application B/27/19

## **LINK TO STRATEGIC PLAN**

Manage growth through sustainable planning.

## **FINANCIAL CONSIDERATIONS**

The impact to assessment resulting from the severance of the dwelling from the farm parcel is minimal.

## 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. At the time of writing no comments had been received from members of the public.

### 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.

<b>Agency or Administrator</b>	<b>Comment</b>
Essex Region Conservation Authority	<ul style="list-style-type: none"><li>• Expand the Wetland (WE) zone over identified natural heritage features to prohibit future development in these areas.</li><li>• New driveway will not be permitted to be built over lot addition lands in favour of the retained farm parcel.</li><li>• For additional comments see Appendix B.</li></ul>
Town of Kingsville Management Team	<ul style="list-style-type: none"><li>• Ensure all buildings and services are contained within existing property lines and do not cross over into newly established lines.</li><li>• Severed parcel has existing vehicle access. New access location required for retained farm parcel.</li><li>• Septic beds to be completely located within proposed severed lots. Clearance letter from Building department required.</li><li>• Drainage reapportionment to be completed.</li><li>• The severed and retained lots be appropriately addressed and obtain 911 signage, if required.</li><li>• Lot grading plan required for any future development.</li></ul>
County of Essex	<ul style="list-style-type: none"><li>• No comments received and none expected.</li></ul>

## RECOMMENDATION

It is recommended that Council:

1. Approve consent application B/26/19 to:

sever an existing dwelling, deemed surplus to the needs of the prospective purchaser, on a 5.002 ha (12.361 ac.) parcel, shown as Part 1 on the applicants' sketch, and

sever and convey a 5.637 ha (13.930 ac.) parcel, shown as Part 3 on the applicants' sketch to the Essex Region Conservation Authority,

subject to the following conditions:

- a) That a reference plan be deposited in the registry office, both an electronic and paper copy of the registered plan is to be provided for the files of the Secretary-Treasurer.
- b) That the deeds, such plan of survey of reference plan, for property lines being newly created, shall be in accordance with the existing zoning requirements for the municipality.
- c) That any special assessment imposed pursuant to the provisions of the Local Improvement Act and/or the Municipal Act be paid in full along with all municipal taxes be paid in full.
- d) That any necessary drainage reapportionments be undertaken.
- e) That as a result of severance, owners shall become liable by way of up front monies for the assessment and taxation of their properties for any waterworks or sanitary sewer systems affecting their properties, in accordance with the Fees By-law in effect on the date the consent is being endorsed on the deeds.
- f) That the severed and retained parcels be transferred to the purchaser, Krushelniski Farms Ltd. as outlined in the Agreement of Purchase and Sale.
- g) That Part 3, the lands being conveyed to ERCA, be consolidated with ERCA's abutting holding and that Section 50 (3 or 5) of the Planning Act applies to any subsequent conveyance of or transaction involving the parcel of land that is the subject of this consent.
- h) That the deeds are endorsed for the lot addition lands and permanent right-of-way (Consent File B/27/19) prior to endorsing the deeds for B/26/19.

- i) That the necessary deed(s), transfers or changes be submitted in triplicate; signed and fully executed (no photocopies), including a copy of the reference plan, prior to certification.
  - j) The conditions imposed above shall be fulfilled by January 27, 2021 or this application shall be deemed to be denied in accordance with Section 53(41) of the Planning Act.
2. Approve zoning by-law amendment applications ZBA/26/19 to rezone the retained parcel, known as 1321 County Road 20, Part of Lot 21, Concession 1, WD, in the Town of Kingsville, to:

rezone the retained farm parcel (shown in red on the location map) from 'Agriculture (A1)' to 'Agriculture Restricted (A2)' to prohibit dwellings as per Provincial and Town policies;

recognize the reduced frontage of the retained farm parcel;

rezone a portion of Part 3, the ERCA lands, to 'Wetland (WE)' to match the surrounding lands;

extend the existing 'Wetland (WE)' zone on a portion of the proposed severed parcel to include the lot addition lands being conveyed as part of consent application B/27/19, and

adopt the implementing by-law.

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Town Planner

*Robert Brown*

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*Peggy Van Mierlo-West*

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Chief Administrative Officer