



planning@erca.org

P.519.776.5209

F.519.776.8688

360 Fairview Avenue West  
Suite 311, Essex, ON N8M 1Y6

January 17, 2020

Mr. Robert Brown, Manager of Planning Services  
Planning & Development Services Department  
The Corporation of the Town of Kingsville  
2021 Division Road North  
Kingsville Ontario, N9Y 2Y9

Dear Mr. Brown:

RE: Consent B-26-19 & Zoning By-law Amendment ZBA-26-19  
1321 COUNTY ROAD 20  
ARN 371128000032500; PIN: 751850676  
Applicant: Paul & Beverly Chortos

The following is provided as a result of our review of Application for Consent B-26-19 and Zoning By-law Amendment ZBA-26-19. The application states the purpose as: "the owners have entered into a purchase agreement with the neighbouring land owner to the east for the purchase of the farm land. 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 north of Cedar Creek. They are also proposing to convey 5.63 ha to the Essex Region Conservation Authority who also owns lands to the east and south. The retained land will be rezoned to prohibit future residential dwellings and the lands conveyed to ERCA will be amended to include any lands not currently zoned Wetland (WE) in that zone". It is our understanding that previously circulated consent application B-27-19 is concurrent with these applications.

## **DELEGATED RESPONSIBILITY TO REPRESENT PROVINCIAL INTEREST IN NATURAL HAZARDS (PPS) AND REGULATORY RESPONSIBILITIES OF THE CONSERVATION AUTHORITIES ACT**

The following comments reflect our role as representing the provincial interest in natural hazards as outlined by Section 3.1 of the Provincial Policy Statement of the *Planning Act* as well as our regulatory role as defined by Section 28 of the *Conservation Authorities Act*.

The above noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the *Conservation Authorities Act* (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Cedar Creek. The property owner will be required to obtain a Permit from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the *Conservation Authorities Act*.

Upon review of airphotos, floodplain mapping and digital elevation modeling, we advise that the northern portion of the subject lands contains hazard lands associated with the Cedar Creek



Mr. Brown  
January 17, 2020

floodplain. We advise that development and or the placement and grading of fill is not permitted within the floodplain area identified as floodway, and Provincially Significant Wetland.

We have had an opportunity to preconsult with the Town of Kingsville staff to discuss our concerns. In accordance with the information provided, we understand that the surplus dwelling identified as municipal address 1321 County Road 20, will be severed from the surrounding farmland parcel, and that the extents of this property will not intersect the hazard lands and Provincially Significant Wetland corridor that exists on this site.

To ensure that the retained farmland parcel is not landlocked, we understand that a right-of-way easement will be registered on title over the adjacent property identified as 1219 County Road 20. We also understand that in order to create legal frontage for the landlocked parcel a 50 foot parcel will be severed from 1219 County Road 20 and added to the retained farmland of 1321 County Rd 20. We therefore advise that the access easement is required because a new access through the 50 foot (frontage) parcel would not be permitted within the floodway or Provincially Significant Wetland in accordance with PPS policies and the Conservation Authority Act Section 28 regulations.

If the Municipality and Committee decide to approve these applications we would therefore ask the inclusion of the following condition to ensure consistency with the PPS policies:

That the 50 foot frontage corridor be created only for the purpose of having legal frontage for the retained farmland. That the floodplain and wetland feature be rezoned to "Wetland" for the long term protection of the hazard lands and Provincially Significant Wetland feature. Further, that a right-of-way access easement be registered on title that will define the location of a shared access to the retained landlocked farmland parcel.

### **WATERSHED BASED RESOURCE MANAGEMENT AGENCY**

The following comments are provided in an advisory capacity as a public commenting body on matters related to watershed management.

Our office has reviewed the proposal and has no concerns relating to stormwater management.

### **NATURAL HERITAGE POLICIES OF THE PPS, 2014**

As noted above, the subject property contains a natural heritage feature that is identified as a Provincially Significant Wetland (Cedar Creek Wetland Complex), significant woodland, significant valleyland, and significant wildlife habitat under the Provincial Policy Statement (PPS, 2014), and will likely also qualify as habitat of endangered species and threatened species.



Mr. Brown  
January 17, 2020

Section 2.1.4 of the PPS, 2014 states - "Development and site alteration shall not be permitted in "significant wetlands..." and "significant coastal wetlands."

Section 2.1.5 of the PPS, 2014 states - Development and site alterations shall not be permitted in significant woodland... and significant valleyland... and significant wildlife habitat...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 of the PPS states – "Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5 and 2.1.6 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions."

Section 2.1.6 of the PPS 2014 states – "Development and site alteration shall not be permitted in fish habitat except in accordance with provincial and federal requirements." Inquiries regarding the applicability of fish habitat to the property should be made to the federal Fisheries and Oceans Canada website: [www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html](http://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html).**PLANNING.**

Section 2.1.7 of the PPS states – "Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements." It is the proponent's responsibility to exercise due diligence in ensuring that all issues related to the provincial Endangered Species Act and its regulations have been addressed.

Due to the purpose of the application being for: the severance of a surplus dwelling, a parcel conveyance to ERCA, the creation of a access easement for the retained farm lot, and that all the proposed lot extents will be located outside of the natural heritage feature, it is our opinion that the completion of an EIA study is not required in this case. We understand that the natural features will be rezoned to Wetland (WE) zone and it is our opinion that this is a sufficient demonstration of no negative impact. The 50' wide parcel of land being severed from 1219 County Road 20 to create frontage for the resulting land locked parcel can be supported by ERCA provided that the above noted condition to rezone the hazard lands and wetland feature to a "Wetland or Natural Environment Protection" be applied. It is our opinion that this application would then be consistent with the natural heritage policies of the PPS.

### **FINAL RECOMMENDATION**

Provided that the hazard lands and wetland feature are zoned "natural environment protection or wetland" and that a right-of-way easement is registered on Title over the subject lands to ensure no



Mr. Brown  
January 17, 2020

access or development will occur in the hazard land and significant natural heritage area, ERCA would be in support this application.

We ask for a copy of the Committee's decision on this application.

If you have any questions or require any additional information, please contact the undersigned.

Sincerely,



Corinne Chiasson  
*Resource Planner*  
/cor

