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**Date:** June 12, 2020

**To:** Mayor and Council

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Town Planner

**RE:** Combined Application for Consent and Zoning By-law Amendment  
File B/01/20 & ZBA/05/20 by  
David & Rosanne Nickels  
1246 & 1250 County Road 34  
Part of Lot 19, Concession 4, WD, Pt. 1, RP 12R 14075

**Report No.:** PS 2020-027

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## **AIM**

To provide the Town of Kingsville with information regarding the consent to sever two existing dwellings deemed surplus to the owners, and a Zoning By-law Amendment to rezone the remnant farm parcel to restrict future development of residential dwellings, on lands known as 1246 & 1250 County Road 34, in the Town of Kingsville.

## **BACKGROUND**

The subject land is 12.14 ha (30 ac.) in area and contains two single detached dwellings and three outbuildings. It is proposed that the two dwellings, deemed surplus to the farming operation of the owners, be severed on a 0.28 ha (0.692 ac.) lot, shown as Part 1 (Parcel A – 1246, dwelling & garage) and a 0.25 ha (0.626 ac.) lot, shown as Part 2 (Parcel B – 1250, dwelling only) on the applicant's sketch. The owners maintain their base of farming operations to the east at 1474 County Road 34.

As a condition of the consent, an application to rezone the retained farm parcel from 'Agricultural (A1)' to 'Agriculture - Restricted (A2)' is required to prohibit dwellings as per Provincial and Town policies (File ZBA/05/2020).

## **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 “Restricted Agriculture (A2)”.

## **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 dwellings conforms to the policies of Section 7.3.1, Agriculture Land Division, of the Official Plan. Both proposed severed parcel are within the recommended size limit of 0.8 ha (1.977 ac.) or less.

Comment: The application conforms to the Kingsville Official Plan.

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

Part 1 on the applicant’s sketch (1246 County Rd 34), has an area of 0.28 ha (0.692 ac.) with 44.81 m (147 ft.) of frontage.

Part 2 on the applicant’s sketch (1250 County Rd 34), has an area of 0.25 ha (0.626 ac.) with 40.54 m (133 ft.) of frontage.

The retained parcel will have an area of approximately 11.33 ha (28 ac.) and provide a frontage of 86.33 m (283.22 ft.) on County Road 34.

The subject property is presently zoned ‘Agriculture (A1)’ in the Comprehensive Zoning By-law.

Comment: There are no zoning issues created as a result of the creation of the surplus dwelling lots. The retained farm parcel will be rezoned from ‘Agricultural (A1)’ to ‘Agriculture - Restricted (A2)’ to prohibit future dwellings as required by the surplus dwelling consent policies.

## **LINK TO STRATEGIC PLAN**

Manage growth through sustainable planning.  
To promote a safe community.

## **FINANCIAL CONSIDERATIONS**

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

## **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.

### **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.

### **Essex Region Conservation Authority (ERCA)**

- The parcel falls within the regulated area of the Orton Sideroad Drain.
- The property owner will be required to obtain a Permit and/or Clearance 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.
- ERCA has no objection to the Application for consent and the Zoning By-Law Amendment.
- See full comment in Appendix D.

### **Town of Kingsville Management Staff**

- Drainage re-apportionment required.
- Confirm that the location of the septic systems and water service are aligned with the proposed limits of both Part 1 and 2.
- Septic system inspections are required.
- New access is required to the retained farm parcel.
- If a new entrance is being created obtain required permits from municipal services or Essex County Highways, which ever applies. Prior to obtaining a building permit.
- Daylight sight triangle requirement (Graham @ Road 5 E). 9m x 9m conveyance including vegetation removal within conveyance

### **County of Essex**

- Provided Engineering comments.
- Minimum setback for proposed structures is 85 feet from the centre of the original ROW.
- Requesting a copy of the Decision.

## RECOMMENDATION

That Council:

Approve consent application B/01/20 to sever two existing dwellings, deemed surplus to the needs of the applicants' farming operation on parcels shown as Part 1 (1246 County Rd 34) - 0.28 ha (0.692 ac.) and Part 2 (1250 County Rd 34) - 0.25 ha (0.626 ac.), on the applicants' sketch, in the Town of Kingsville, 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 to the Town.
- b) That any special assessment imposed pursuant to the provisions of the Local Improvement Act and/or Municipal Act be paid in full along with all municipal taxes.
- c) That any necessary drainage apportionments be undertaken.
- d) That a clearance letter of approval for the septic systems on Parts 1 and/or 2 must be obtained from the Town's Building Department.
- e) That as a result of the 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 of certification of the deed.
- f) The zoning of the retained parcel be amended to prohibit future dwellings prior to certification.
- g) That the applicants convey a 9m x 9m daylight triangle (at the corner of Graham Sideroad & Road 5 E) including vegetation removal, free of charge and clear of all encumbrances.
- h) That the applicants obtain the necessary permit for and install a new access to the retained farm parcel at the applicant's expense and to the satisfaction of the Town and/or County;
- i) That the necessary deed(s), transfer 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 August 10, 2021 or this application shall be deemed to be refused in accordance with Section 53(41) of the Planning Act.

Council approve zoning by-law amendment application ZBA/05/20 to rezone the retained parcel, in Part of Lot 19, Concession 4, WD, Pt. 1, RP 12R 14075, in the Town of Kingsville, from 'Agriculture (A1)' to 'Agriculture – Restricted (A2)' and adopt the implementing by-law.

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