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Date: April 26, 2021

To: Mayor and Council

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Town Planner

RE: Zoning By-law Amendment File ZBA/04/21 by
Giuseppe Quadrini
380 Inman Side Road
Part Lot 264, Concession NTR, Part 1, RP 12R 25434
Roll No. 3711 590 000 07800

Report No.: PS 2021-026

RECOMMENDED ACTION

That Council:

Approve zoning by-law amendment application ZBA/04/21 to amend the zoning of the subject parcel, Part Lot 264, Concession NTR, Part 1 RP 12R 25434, known as 380 Inman Side Road in the Town of Kingsville, being 'Agriculture – Exception 52 (A1-52)'; to permit the construction of a residential dwelling and adopt the implementing by-law.

BACKGROUND

The Town of Kingsville has received the above-noted application for lands located in the northeast corner of the intersection of Inman Side Road and County Road 34 E (see Appendix A). The subject parcel is designated 'Agricultural' by the Official Plan and is zoned 'Agricultural -Exception 52 (A1-52)' under the Kingsville Comprehensive Zoning By-law.

The parcel is 0.696 ha (1.72 ac.) in size and contains a storage shed. The applicant is seeking an amendment to the current zoning to permit a dwelling to be constructed on the site.

In 2012 the property owner, the Greater Essex County District School Board (GECD SB), was in the process of selling the property and applied for a zoning amendment to have the property reclassified as Agricultural similar to the surrounding

lands. The GECD SB had used the site for storage of old lighting systems that contained a small amount of PCB chemicals, they were then directed to undertake environmental testing to confirm that there was no contamination on the site since the rezoning would lead to a residential use being permitted. The testing yielded no contamination however no Record of Site Condition (RSC) was filed with the Ministry of Environment, Conservation and Parks. The applicant has since completed the work required to file the RSC and confirmation of the filing has been received by the Town (see Appendix B). In addition, the abutting livestock farmer objected to the zoning on the basis that a dwelling on the site could impact future expansion of his operation. It was finally agreed that a dwelling would not be included as a permitted use and the zoning was approved on a limited basis. The amendment was also approved with a Holding provision that required site plan approval and further confirmation of no contamination on the site. The current zoning under the Kingsville Zoning By-law did not include those same provisions.

DISCUSSION

1) 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): “The Provincial Policy Statement provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.”

Section 2.3.1 states that “Prime agricultural areas shall be protected for long-term use for agriculture”.

Comment: There are no issues of Provincial significance raised as a result of the proposed zoning by-law amendment and permitting a residential dwelling on the subject property while maintaining the minimum distance separation from existing livestock operations. Therefore, the application is consistent with the Provincial Policy Statement.

2) Town of Kingsville Official Plan

The Official Plan for the Town of Kingsville designates the subject property as ‘Agriculture’.

The policy identifies that “residential uses on existing lots of record in accordance with Section 3.1.1 of this Plan and lots created by the consent process in accordance with Section 7 of this Plan are permitted. The Zoning By-law shall only permit one residence per lot”.

Comment: The applicant applied for a Zoning By-law Amendment in order to permit the construction of a single detached dwelling on the property. The application conforms to the goals and policies outlined in the Town’s Official Plan.

3) Town of Kingsville Comprehensive Zoning By-law

The subject parcel is currently zoned 'Agriculture - Exception 52 (A1-52)' where there are several uses currently permitted, including but not limited to agriculture, church and digital communications. However, the zoning does not permit any residential use because the site was previously contaminated and not suitable for residential use. The current owner of the property has cleaned up the site and would like to amend the zoning to permit the construction of a residential dwelling on the property.

Comment: The proposed residential use on the property would be very similar to zoning of the properties in the area surrounding the subject property. By amending the existing site specific zoning, the permitted uses will revert back to what is normally permitted in the A1 zone. The zoning of the property will maintain the existing site-specific zone provisions with the exception of the site remediation and holding provision since through a Record of Site Condition, the property has been declared suitable for residential development. Therefore, the proposed amendment has been determined to be good planning.

Minimum Distance Separation (MDS)

In the 1970's and 1980's, under the Best Management Practice new livestock operations were simply required to be 1,000 ft. away from the nearest dwelling. This same setback applied to a new dwelling. This setback was not based on any type of science-based evidence and applied regardless of the size of the livestock operation or type of manure storage.

The Ontario Ministry of Agricultural and Rural Affairs (OMAFRA) to provide a much more science-based guidance on the location of new and expanding livestock operations and the location of new dwellings in agricultural areas later developed MDS. Setbacks are now based on the type of livestock, quantity of livestock and the type of manure storage. The goal of MDS is to minimize land use compatibility issues in the agricultural area resulting from the raising of livestock.

MDS has two types of guidelines, MDS I applies to the location of a new dwelling in relation to an existing livestock operation, MDS II applies to the location of a new or expanding livestock operation. In the case of the farm abutting 380 Inman Sd Rd MDS I is the guide which we look to first. MDS calculations were prepared based on a total of sixty cattle, based on the total square foot of livestock capable barns on the neighbouring farm. MDS I requires that a new dwelling be located 209 m (685 ft.) (see map in Appendix C) from the nearest barn. The calculations are attached as Appendix C-1. This setback was also mapped to show the area left on the subject parcel for the construction of a dwelling. Although the requirement does impact a significant amount of the lot there still remains space on the lot for the actual dwelling. MDS setbacks only apply to the dwelling.

In addition to reviewing the setback requirements for the dwelling it is also important, in the case of the zoning request such as this, to determine if permitting a dwelling at 380

Inman will impact the existing farms ability to house livestock or more importantly expand. The factor often used to determine this would be to double the current livestock capacity. Calculations were completed (Appendix C-2) for this and a new dwelling at 380 Inman would not impact the neighbouring farms ability to expand by 100%. It should also be noted that there are actually homes closer to the potential livestock operation that would have more of an impact on expansion then a proposed dwelling on the subject parcel.

While MDS is designed to minimize land use compatibility potential, it does not address what is often the larger issue with many livestock operations or even just cash crop, neighbour complaints. With the introduction of non-farm residents into the agricultural area there is inevitability the opportunity for complaints from a person that does not understand normal farm practices. It is worth noting that several years ago, in consultation with OMAFRA on the issue of non-agricultural development in the agricultural area, that OMAFRA actually receives an equal amount of complaints from farmers as they do from non-farmers on normal farm practice issues.

LINK TO STRATEGIC PLAN

Manage residential growth through sustainable planning.

Link to Council 2021-2022 Priorities

- ☐ COVID-19 and the health and safety of the community
- ☐ Customer Service: Training, Technology, Staff, Review Standards/Level of service
- ☒ Housing: Affordability (lot sizes, developer incentives, second dwellings, density, etc.)
- ☐ Greenhouse: lights & dark sky, odours (site plan compliance, bylaws, other tools)
- ☐ Programming Increase: Youth and Seniors
- ☐ A development plan for Downtown Kingsville / Main Street
- ☐ Financial savings: Schools closings, Migration Hall
- ☐ Economic Development: strengthen tourism/hospitality
- ☐ COVID - economic recovery
- ☐ Communications: Strategy – Policy (social media), Website refresh and other tools, Public engagement
- ☐ Housing: Migrant Worker Housing – Inspections (Building/Fire), regulate, reduce, or increase
- ☐ Committees / Boards: Review and Report
- ☐ Policy Update: Procedural Bylaw
- ☐ Economic Development: diversify the economy, create local jobs, industrial, Cottam
- ☐ Infrastructure (non-Municipal): Union Water expansion & governance
- ☐ Infrastructure (Municipal): Asset Management Plan update, the infrastructure funding deficit
- ☐ No direct link to Council priorities

FINANCIAL CONSIDERATIONS

There will be an increase in the assessment value of the property as a result of the construction of a residential dwelling.

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 one letter in support has been submitted (see Appendix D). In addition, an adjacent land owner phoned to discuss their displeasure with the application to permit a dwelling since they are not permitted to create residential lots off their farm lands, and they intend to have a cattle operation on the farm. It was explained that lot creation in Agricultural lands are not permitted as per the PPS and that the minimum distance separation (MDS) formula was conducted and there is space on the subject lot in which a residential dwelling may be constructed without impeding on the setback from the proposed livestock operation (see Appendix C for MDS setback map).

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. At the time of writing, the following comments have been received.

1) Essex Region Conservation Authority (ERCA)

- ERCA has no objection to the Application for a Zoning By-Law Amendment.
- See full comment in Appendix E.

2) Town of Kingsville Management Staff

- It was requested by IES that driveway access be restricted to Inman Side Road. Any access County Rd 34 would require a permit from the County and is unlikely to be granted given the availability of access to Inman Side Road.

3) Essex County

- No comments received

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