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**Date:** August 11, 2021

**To:** Mayor and Council

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

**RE:** Application for Surplus Dwelling Severance, Lot Addition & Access  
Easement File B/10/21 &  
Zoning By-law Amendment File ZBA/07/21 by  
Rock Island Investments Inc. & Kennedy Colasanti  
838 & 888 Road 3 E  
Part of Lot 5 & 6, Concession 3 ED, Pts. 4, 5 &

**Report No.:** PS 2020-057

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## RECOMMENDED ACTION

That Council:

Approve consent application B/10/21 to:

sever an existing dwelling, deemed surplus to the needs of the applicant's farming operation on a 1.3 ha (3.2 ac.) lot shown as Part 3 on the applicant's sketch, known as 888 Road 3 E, in the Town of Kingsville, subject to the following conditions:

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.

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.

That any necessary drainage apportionments be undertaken.

That the applicants provide confirmation to the satisfaction of the Town of the location of and function of the septic system.

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.

The zoning of the retained parcel be amended to prohibit future dwellings, and protect the Natural Heritage Feature prior to certification (ZBA/07/21).

That the applicant provide confirmation to the satisfaction of the Town the location of any existing septic systems in relation to the revised lot line locations.

sever and convey a portion of lands from 838 Road 3 E, shown as Parts 5 & 6, as a lot addition to 888 Road 3 E, subject to the following conditions:

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.

That the lot addition to be severed, shown on the applicant's sketch as Parts 5 & 6, be conveyed to and consolidated with the abutting parcel, known as 888 Road 3 E (P.I.N. 75169-0110) and Section 50(3 or 5) of the Planning Act applies to any subsequent conveyance of or transaction involving the parcels of land that are the subject of this consent.

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.

That any necessary drainage apportionments be undertaken.

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.

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 of the dwelling severance, lot addition and right-of-way.

The conditions imposed above applicable to all approvals shall be fulfilled by August 23, 2022 or this application shall be deemed to be refused in accordance with Section 53(41) of the Planning Act.

Establish a permanent access right-of-way over 838 Road 3 E (Parts 1 & 2 on the applicant's sketch), in favour of 888 Rd 3 E for the purpose of access to the woodlot, subject to the following conditions:

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;

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;

The conditions imposed above shall be fulfilled by August 23, 2022 or this application shall be deemed to be refused in accordance with Section 53(41) of the Planning Act.

Approve zoning by-law amendment application ZBA/07/21 to rezone the farmed portion of the retained parcel (Parts 5 & 6 and a portion of Part 4 on the applicant's sketch) from 'Agriculture (A1)' to 'Agriculture – Restricted (A2)', and rezone the woodlot area (a portion of Part 4) from 'Agriculture (A1)' to 'Natural Environment (NE)' on Part of Lots 5 & 6, Concession 3 ED, Pts. 4, 5 & 8, RD 189 & Pt. 1, RP 12R 2247, in the Town of Kingsville, and adopt the implementing by-law.

## **BACKGROUND**

The Town of Kingsville has received the above-noted application for lands located on the north side of Road 3 E, west of Graham Side Road, as shown in Appendix A. The subject property is designated 'Agriculture' by the Official Plan and zoned 'Agricultural (A1)' under the Kingsville Comprehensive Zoning By-law.

The subject land consists of two parcels; 838 Road 3 E a 28.9 ha (71.52 ac.) farm with an existing dwelling and 888 Road 3 E a 20 ha (49.6 ac.) farm with an existing dwelling and outbuilding. It is proposed that the dwelling at 888 be severed on a 1.3 ha (3.2 ac.) parcel (shown as Part 3 in Appendix B) as surplus to the farming operations of the owners. The farmed portion of the remaining farm parcel (Part 4) will be rezoned 'Agriculture – Restricted (A2)' to prohibit future dwellings, as required by Provincial and Town policy, while the wood lot will be rezoned to 'Natural Environment (NE)' to preserve the woodlot and also prohibit residential development. The applicants also own the abutting property at 838 Road 3 E and are proposing to sever and convey Parts 5 and 6 as a lot addition to Part 4 (the retained parcel at 888 Road 3 E) in an attempt to square off the lot. Lastly Parts 1 and 2 are proposed as an access right-of-way for continued access to and maintenance of the wood lot at 888 Road 3 E (Part 4).

## **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. Future dwellings will be prohibited on the retained farm parcel, including the lot addition lands, as a condition of consent, in that the retained parcel will be rezoned to ‘Restricted Agriculture (A2)’ and ‘Natural Environment (NE)’ both of which do not permit residential dwellings. See the colour coded sketch in Appendix C.

## **2.0 Official Plan**

The Official Plan for the Town of Kingsville designates the severed and retained lands as ‘Agriculture’. Schedule “B” – Natural Heritage Features identifies the woodlot portion of the subject lands as ‘Environmentally Significant Lands’ (see the outlined area in Appendix D).

Comment: The requested consent and zoning applications conform to the policies of Section 7.3.1, Agriculture Land Division, of the Official Plan.

## **3.0 Comprehensive Zoning By-law**

The subject property is presently zoned ‘Agriculture (A1)’ in the Comprehensive Zoning By-law. The severed surplus dwelling, shown as Part 3 on the applicant’s sketch, has an area of 1.3 ha (3.2 ac.) with 93.57 m (307 ft.) of frontage on Road 3 E. With the addition of the 1.65 ha (4.1 ac.) lot addition lands (Parts 4 & 5), the retained farm parcel will have an area of approximately 20.8 ha (51.4 ac.) and provide a frontage of 209.20 m (686.4 ft.) on Road 3 E.

Comment: There are no zoning issues created as a result of the creation of the surplus dwelling lot. The farmed portion of the retained parcel will be rezoned from ‘Agricultural (A1)’ to ‘Agriculture - Restricted (A2)’ to prohibit future dwellings as required by the surplus dwelling consent policies while the woodlot area of the retained lands will be rezoned to ‘Natural Environment (NE)’ which preserves the woodlot while prohibiting future dwellings, as required by both Provincial and Town Policy. The access right-of-way, shown as Parts 1 & 2, over 838 Road 3 E will function as an access to the woodlot on 888 Road 3 E.

## **LINK TO STRATEGIC PLAN**

Manage 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**

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)**

- With the woodlot portion of the parcel falling within a Natural Heritage Feature, it is required to demonstrate no negative impact to the feature. One method to do this is rezoning the lands in such a way that prohibits development.
- ERCA has no objection to the Application for consent and the Zoning By-Law Amendment.
- See full comment in Appendix E.

### **Town of Kingsville – Technical Advisory Committee**

- Drainage re-apportionment required.
- Confirm that the location of the septic system and water service are aligned with the proposed limits of Part 3.
- Septic system inspection is required to ensure the system is located entirely within the newly proposed lot.
- The retained farm must be rezoned to prohibit future dwellings and the woodlot portion is being rezoned to protect the natural heritage feature.

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