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Date: December 2, 2022

To: Town of Kingsville, Planning Services
Attn: George Robinson, MCIP, RPP

RE: Planning Justification Report for
Proposed Application for Consent
40 Cameron Side Road, Pt. of Lot 275, Concession STR
Roll # 3711 570 000 00700

Author: Robert Brown, H. Ba, MCIP, RPP

Purpose

To provide an overview of the related land use planning considerations in support of a consent application to sever and convey lands as a lot addition to an existing manufacturing facility.

Background

Rivard Engineered Products Inc. (REPI) is a manufacturer of wood roof truss systems and engineered flooring products. Prior to REPI the site was owned and operated by North American Plastics. In 2007 REPI started production on the site and has continued to grow annually to the point that additional staging, assembly and storage area is needed on the site for raw materials and finished products awaiting delivery.

The current site is 1.6 ha (4 ac.) (Appendix A) in size with approx. 33,000 sq. ft. of indoor production area, 2,800 sq. ft. of office and 103,000 sq. ft. of outdoor storage, assembly and staging area. The company has approached a neighbouring landowner who has agreed to sell an approximately 1.58 ha (3.9 ac.) portion of the existing farm parcel as a lot addition to the rear of REPI. (Appendix A-1)

The current site and lot addition lands are both located within the Agriculture designation of the Kingsville Official Plan. The REPI site is zoned M1 Light Industrial which permits the current use however the lot addition lands are zoned Agriculture (A1). If approved, as a condition of the consent, a zoning amendment will be required to

rezone the lot addition lands. There is an existing site plan approval in place on the REPI site from the 2019 expansion. An amendment to the that site plan will be required to extend over the lot addition lands to address drainage and buffering.

Planning Rationale

1) Provincial Policy Statement (2020)

The subject lands are prime agricultural and as such subject to the policies of Section 2.3, Agriculture under PPS. Section 2.3.6 specifically relates to the subject application as it addresses, “Non-Agricultural Use in Prime Agricultural Areas”

Section 2.3.6.1 states that, “Planning authorities may only permit non-agricultural uses in prime agricultural areas for:

- a) Extraction of minerals, petroleum resources and mineral aggregate resources; or
- b) Limited non-residential uses, provided that all of the following are demonstrated:
 1. the land does not comprise a speciality crop area;

Comment: While there are pockets of different soil types within the Town of Kingsville that are considered speciality crop lands this area is not consider a speciality crop area. Based on the OMAFRA AgMap mapping (see Appendix B) the property is in an area of Brookston Clay and further classed as 2w which is Class 2 lands under the Canada Land Inventory having moderate limitation on crop types and is well drained however only with systematic tile drainage. Traditional cash crops on this soil type are wheat and soybeans but is less popular for commercial corn. The Town of Kingsville Official Plan also does not identify speciality crop land within the Town.

2. the proposed use complies with the minimum distance separation formulae;

Comment: It is important to consider what type of planning approval is proposed in agricultural areas as it can have a significant impact on the required setbacks for new or expanding livestock operations. Residential, commercial and institutional zoning will actually require a double up factor in MDS which would negatively impact on expanding or new operations. The subject is not located within 500 m of any identified livestock operations and as such complies with MDS. The lot addition lands could be rezoned to a site-specific agricultural to limit the use to outdoor storage and staging area. However, with the significant number of existing

residential uses in the area this would likely be unnecessary as the existing residential uses have much more impact on any existing or proposed livestock operation. As such MDS is not a factor in the proposed lot addition.

3. there is an identified need within the planning horizon provided for in policy 1.1.2 for additional land to accommodate the proposed use; and

Comment: Policy 1.1.2 specifically notes, "Sufficient land shall be made available to accommodate an appropriate range and mix of land uses to meet projected needs for a time horizon of up to 25 years, informed by provincial guidelines. However, where an alternate time period has been established for specific areas of the Province as a result of a provincial planning exercise or provincial plan, that time frame may be used for municipalities with the area."

If this statement is meant to apply to the entire municipality and not just settlement areas, then the accommodation becomes more of a case-by-case assessment. It is difficult to provide "sufficient land" and "meet projected needs" for certain lands uses, particularly in agricultural areas or in small four corner communities since that need has changed with the regionalization of the many different services that were more locally based. This has often left a variety of properties being sold off with a need to accommodate a boarder type of use beyond agricultural or agriculture-related. In the case of the subject property the zoning established an industrial permission and if that particular business or future business was successful then a demonstrated need has been established i.e. more production requires more space. In turn the municipality, to be consistent with 1.1.2 needs to provide "sufficient land" to "meet projected needs."

PPS and local Official Plan policy are concerned with the protection of prime agricultural lands on two fronts; limiting the loss of actual physical agricultural acreage and insuring that non-residential uses do not negatively impact on the continued use of prime agricultural land.

The lot addition lands are part of a larger farm parcel that has actively farmed land and contains an operational greenhouse. There will be a loss of agricultural lands because of the lot addition however the business requires additional outdoor storage, assembly and staging area and this location is the most efficient and least disruptive to the ongoing operation of the business. Need for the additional lands is clear based on the growth of the business and the current significant growth in residential development which the business directly supports.

The second point related to ongoing impact has, to some degree, already been established by the existing industrial use on the site. The lot addition

lands are located directly to the rear of the existing REPI site and do not create any issues with continuing to farm the remaining lands. Any impact on agriculture in the area already exists as a result of a large amount of existing rural residential development. Permitting the expansion of the proposed business will not increase or add to the existing impact on farming operations in the area.

Business Overview

- i) Up to 2020 the building on the site was shared with a plastic manufacturer.
- ii) In 2020 a second production line was installed to meet customer demand.
- iii) In 2021 new investment of \$1,000,000 was made in an automated lumber picking system.
- iv) Plans are being considered for the installation of a third production line.
- v) The business supplies roof truss systems and engineered floor products to the residential, agricultural, and commercial sectors.
- vi) The business employs a total of 26 full time and 6 part time, a 3rd production line would add an additional 8 employees.
- vii) The company currently generates over 10 million dollars in annual sales with hopes to expand that to 15 million.
- viii) Other direct competitors are located on larger sites closer to 10 acres in size and often on the outskirts or fringe of built-up areas.
- ix) The current site has been operating in its current location for many years with no reported issues with the surrounding uses.
- x) The property prior to being used for the current use was also an industry use.
- xi) The site is well located to service a large market area including Essex, Chatham-Kent, Lambton and onward.

alternative locations have been evaluated, and

- i. there are no reasonable alternative locations which avoid prime agricultural areas; and

Comment: The location of the business has been established already and avoidance of prime agricultural areas for any former of development or expansion is unlikely given the nature of much of Southwestern Ontario as a prime agricultural area. Relocation of any established business is a logistical nightmare that not only impacts the business but negatively impacts the end users. Growth of the business has been significant in a very short period and relocation would require duplicating the current site elsewhere in order to not impact production that is already being pushed to keep up with demand from the residential sector.

- ii. there are no reasonable alternative locations in prime agricultural areas with lower priority agricultural lands.

Comment: Since all of Essex County is prime agricultural lands it is difficult to locate on lands of a lower priority. As noted earlier the site is located on Brookston Clay which is still considered prime agricultural but could also be considered lower priority given it's limited ability to support a wider variety of crops.

Section 2.3.6.2 goes on to outline, "Impacts from any new or expanding non-agricultural uses on surrounding agricultural operations and lands are to be mitigated to the extent feasible.

Comment: The property in question has been used for some form of industrial purposes for many years, even prior to the establishment of REPI on the site, without impacting the surrounding agricultural area. For example most urban or built-up areas often have industrial uses located on the fringes of their settlement areas abutting agricultural lands with little to no impact on the agricultural lands.

In addition to the impact on surrounding agricultural lands it is also important to note that the REPI site is surrounded on two sides by rural residential development. The proposed expansion will extend the outdoor storage, assembly and staging area directly behind four addition existing lots fronting on County Road 34.

The Ministry of Environment, Conservation and Parks (MECP) provides a guideline (D-6) for approval authorities when considering the location of a new use in proximity to a sensitive land use. Based on the nature of the existing use on the site it would be considered primarily within the range of a Class I use but also does have limited Class II characteristics as well. The recommended setback for a Class I is 20 m, Class II is 70 m. This distance is generally based on a setback from the property line of the proposed use to the property line of the sensitive land use.

Because the proposed lot addition is directly to the rear of the existing residential lots this setback would not be met for either a Class I or Class II. The D-6 Guidelines are not incorporated into PPS, the County or Town Official Plans or Zoning By-law. However, this is not to say that the guidelines have not been reviewed in the consideration of the proposed lot addition.

As with any request to consider a land use change and locate it closer to a potentially sensitive land use there must be weight given to potential mitigation measures. In the case of the proposed lot addition the following should be included in that consideration:

- i) the current use has an established interaction with existing rural residential uses and no record of concerns or complaints.
- ii) the nature of the use of the lot addition lands i.e. intensity;
- iii) the nature of the rural residential lots and location of dwellings on those lots i.e. closest dwelling is within 59 m of the existing operation, lot addition area will be located further than 59 m away;
- iv) enhanced screening can be provided along the rear of the lots abutting the lot addition in the form fencing and tree planting, and
- v) existing topography or vegetation along the shared lot line.

1) Official Plan – County of Essex, Town of Kingsville

The existing site is designated Agriculture in both the Town of Kingsville Official Plan and County of Essex Official Plan. The property is within what is recognized locally as North Ridge, a four corners community, primarily consisting of rural residential uses and farms. Unlike other non-settlement area sites in Kingsville the property was never designated as an existing industrial site. In both the County and Kingsville Official Plan the property would be considered a legal non-conforming use as it is not agriculture or agriculture related despite being zoning General Industrial, M1.

As a non-conforming use and regardless of its designation the property is afforded certain consider in terms of expansion.

Under Section 4.16 of the County OP Non-Conforming Uses outline the following:

- a) Nothing in this plan will affect the continuance of uses legally existing on the date this plan was adopted by Council.

Comment: An industrial use has continued on this site for many years and the proposed lot addition will help to provide added outdoor storage and a safer site hence permitting the continuance of the legally existing use on the site.

- b) Local municipalities, in co-operation with residents will attempt to reduce the number of non-conforming uses whenever and wherever possible according to the policies of this Plan.

Comment: The industrial use of the site is not noxious in nature and has co-existed in this location even prior to the current business.

- c) An application for the enlargement or extension of an existing use will be judged as follows:

- i) The proposed expansion does not significantly increase the size of the existing use.

Comment: The existing building on the site was expanded in the last five years. The lot addition request is about having added outdoor storage to manage the existing business which is limited in its ability to store finished product and raw materials on-site. The increase in size is not focused on expansion of the building but rather having added room to manage existing production.

- ii) The proposed expansion does not require an adjustment to the boundary between two areas of different land use.

Comment: The challenge with the subject property is that the receiving lot and lot addition are both in the Agriculture designation of the Official Plan but zoned differently. Arguably even the expansion of conforming uses can result in a boundary adjustment between two different land uses.

- iii) The proposed expansion does not increase its incompatibility with the surrounding area.

Comment: The proposed expansion will require both a zoning amendment and site plan approval that can assist with establishment of addressing any compatibility issues. The existing business has been in this location for several years with no reports of concern or compatibility issues.

- iv) Conditions that may minimize any potential nuisances can be imposed including but not limited to, landscaping, screening, and

setbacks; and factors such as traffic safety, parking, loading and municipal services are not adversely affected.

Comment: As noted above site plan approval can address and implement any necessary mitigation measures needed between the lot addition lands and abutting rural residential lots.

The Kingsville Official Plan also contains Section 8.7.2 Non-Conforming Uses which notes, "Any land use which does not meet the provision of Subsection 8.7.1 Existing Lands Use and Buildings shall be left as a non-conforming use in the implementing Zoning By-law. As a general rule, such a use should cease to exist in the long term. In special circumstances, however, it may be desirable to permit the extension or enlargement of such non-conforming use in order to avoid unnecessary hardship. It is the intention of this Plan that extensions and enlargements be handled without an amendment to this Plan. When considering an application for the extension or enlargement of a use which does not conform to implementing Zoning By-law, Council or the Committee of Adjustment shall decide if the special merits of the individual case make it desirable to grant permission for the extension or enlargement of the non-conforming use, and in so doing shall have regard to the following matters:

Although the use on the existing lot is considered a legal conforming use under the Light Industrial, M1 it remains legal non-conforming under the Agriculture designation of the Official Plan and as such should be given partial consideration under this section.

- a) The proposed extension or enlargement of the established non-conforming use shall not unduly aggravate the situation created by the existence of the use, especially in regard to the policies of this Official Plan and the implementing Zoning By-law applying to the area;

Comment: As noted an industrial use has been located on this property and interacted with the area for many years with not reported issues. The use of the existing property is not changing. The lot addition is being acquired to provide added storage space for the existing business to better operate.

- b) The proposed extension or enlargement shall be in an appropriate proportion to the size of the non-conforming use established prior to the passing of the Zoning By-law;

Comment: Based on the use on the site and the consideration of other similar businesses in Southwestern Ontario the enlargement still leaves the overall property smaller in size (8 ac.) versus the similar businesses that can be 10 ac. or more. Based on observation at the site the area immediately around the building and in the building are the primary active portion of the business. The

outdoor storage area is used less frequently for placement of materials, storage of finished product awaiting delivery and loading.

- c) An application which would affect the boundary areas of different land use designations will only be processed under these policies if it can be considered as a minor adjustment permitted under the interpretation clause, subsection 8.11.2 of this Plan without the need for an amendment. Any major variance will require an amendment to this Plan.

Comment: Minor adjustment is a subjective term which needs to be considered in the context of the use and its need for outdoor storage space. It is also important to note that the wording of subsection 8.11.2,

“The intent of the Plan shall, in all cases, be considered flexible, and no strict interpretation of any figure or policy statement is intended. Appropriate variations may be made to these and to the other statements herein where, in the opinion of Council, they are deemed to be necessary for the desirable development of the planning area, provided that the general intent of the Plan is maintained. Amendments to the Plan are not required in order to make minor adjustments to the land use boundaries provided the intent of the Plan is preserved and the land use does not exceed the boundaries of the established settlement area.”

This statement is not intended to be used as a method to circumvent the policies of the Official Plan but rather to highlight the need to apply some level of common sense in the decision making and implementation process. For example is it appropriate to require the Plan to be amended where the designation of the existing lot and the designation of the lot addition are within the same OP designation?

- d) The characteristics of the existing non-conforming use and the proposed extension or enlargement shall be examined with regard to noise, vibration, fumes, smoke, dust, odours, lighting and traffic generation;

Comment: Zoning and site plan will be required to address the use of the added lands along with addressing any potential compatibility concerns.

- e) The neighbouring non-conforming uses will be protected, where necessary, by the provision of areas for landscaping, buffering or screening, appropriate setbacks for buildings and structures, devices and measures to reduce nuisance, and where necessary, by regulations for alleviating adverse effects caused by outside storage, lighting, advertising signs etc. Such provisions and regulations shall be applied to the proposed extension or enlargement, and where feasible, also extended to the established use in order to improve its compatibility with the surrounding area;

Comment: The extension will be subject to site plan control.

- f) Traffic and parking conditions in the vicinity shall not be adversely affected by the application, and traffic hazards will be kept to a minimum by appropriate designs or ingress and egress points to and from the site and improvement of sight conditions, especially in proximity to intersections;

Comment: Traffic to the site is existing and will continue to increase with or without the additional lands. Parking on the site is already provided and will be reviewed as part of the site plan process.

- g) Adequate provisions have been, or will be made for off-street parking and loading facilities;

Comment: This is not an issue but as already noted will be addressed during the site plan stage.

- h) Applicable municipal services such as storm drainage, sanitary sewage collection and disposal and potable water treatment and supply are adequate and meet with the approval of the Ministry of the Environment and or the applicable statutory approval authority having jurisdiction.

Comment: There is no proposed changes to the need for services to the site. There is an existing open municipal drain between the existing site and lot addition lands. This will require attention as part of the site plan approval process. The applicant is open to consultation with the Town on any necessary attention this requires.

2) Comprehensive Zoning By-law

The lot addition lands are located within the Agricultural (A1) Zone while the receiving lot is zoned Light Industrial (M1). There are two different courses of action that can be taken to address the immediate use of the lands and the longer-term goal of limiting non-farm development. The lands are needed first and foremost for outdoor storage, assembly and staging area. The manufacturing of roof trusses does require a significant outdoor area. The lands could remain within the agricultural zone with special provisions outlining the limited use or the lands could be placed in a site-specific Light Industrial (M1) which would also be limited in use.

The following chart outlines what the recommended zoning amendment would establish as site-specific regulations for the business either in the Light Industrial (M1) or existing Agricultural (A1):

Category	Proposed Amendment
Permitted Use	Outdoor storage, assembly and staging accessory to the manufacturing of roof truss and floor systems
Special Regulation A	Notwithstanding any other provision of the by-law to the contrary an outdoor storage, assembly and staging area shall maintain a minimum setback from a residential zone of 5 m (16.4 ft.) or as established on an approved site plan, whichever is greater
Special Regulation B	Within the required 5 m (16.4 ft.) residential zone setback screening and landscaping shall be provided via an approved site plan amendment
Special Regulation C	Minimum setback on all other sides abutting an agricultural zone shall be 3 m (10 ft.)
Special Regulation D	Increase to the permitted outdoor storage lot coverage allowance to 60%

It should be noted that the regulations suggested in the amendment are based on existing circumstances on the receiving lot. The one significant change is to the outdoor storage provision which is currently limited to 20%. The existing operation utilizes about 45% of the current lot for outdoor storage however this is in part due to the increased volume of production and lack of space. As part of any future amendment on the lot addition lands it is recommended that both the receiving lot and lot addition lands combined permit up to 60% outdoor storage. This will provide both space for raw materials and temporary storage of finished products.

3) Site Plan

The receiving lot has an approved site plan in place as the result of an addition to the existing building. To address drainage, buffering and screening along the rear of the existing rural residential lots along County Rd 34 an amendment to that plan will be required to illustrate the buffering and screening, address the existing open municipal drain, address storm water management for the new area and include the lot addition lands within the overall site plan.

Conclusions

The rationale in PPS and Official Plans for limiting all development in prime agricultural areas is clearly understood. It protects these areas from the loss of productive lands and mitigates or reduces the impact of non-agricultural uses. Establishment of the subject business on a greenfield site would clearly not be and shouldn't be permitted. Recognizing existing non-agricultural uses and their potential need to expand should be considered case-by-case and established with proper controls and regulations in place such as zoning and site plan control. The proposed lot addition is not rationalized as a minor boundary adjustment but rather the expansion of an existing non-conforming use under the Official Plan and legal conforming use under the Zoning By-law.

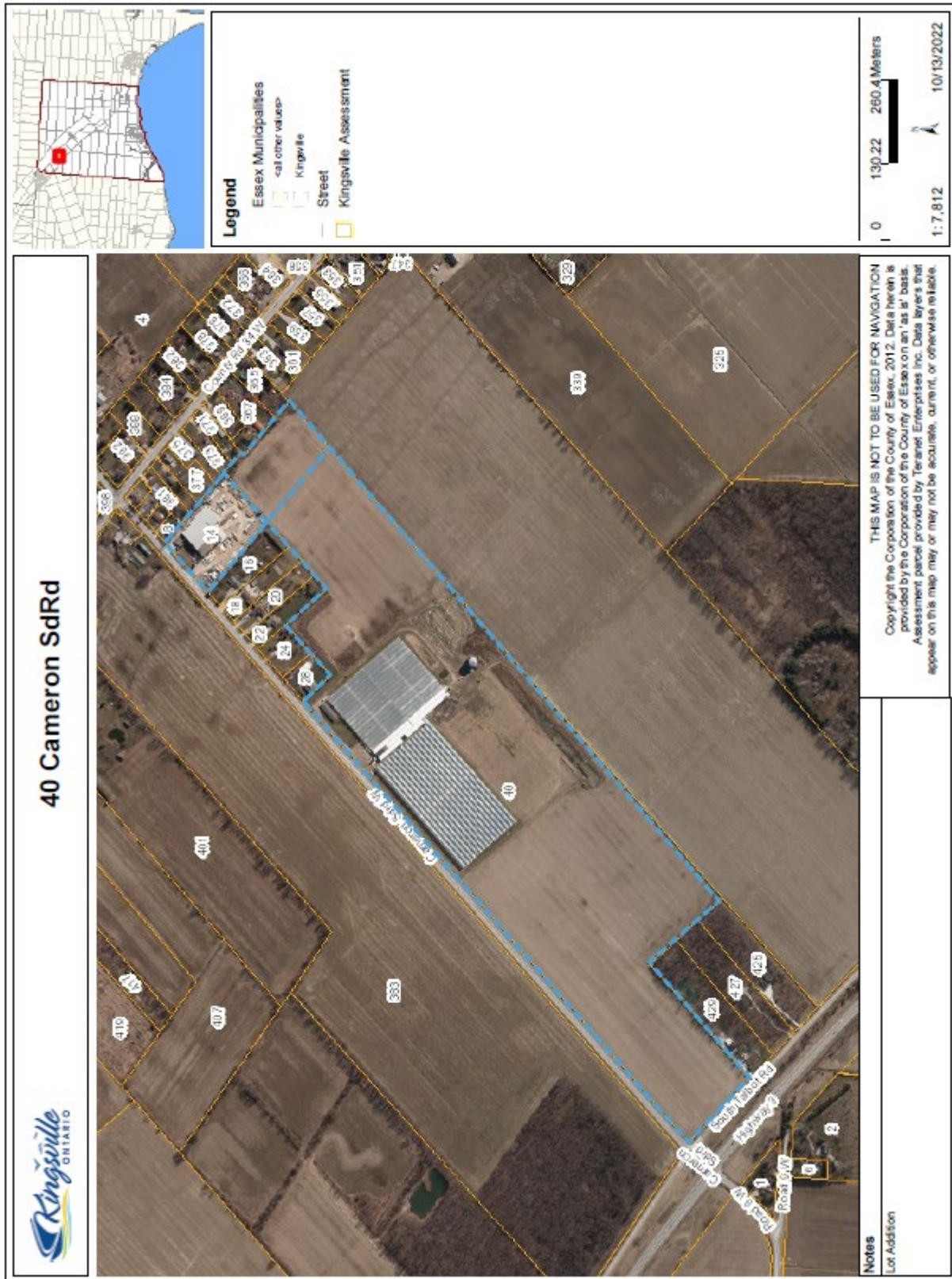
While one approach to addressing this growth could be to simply deny the lot addition and force the relocation of the business to a larger site, this lacks common sense and has the potential to permanently damage, cause undue hardship, to the established business and significantly impact its customers and financial well-being. Loss or disruption of the business would also have an immediate impact to the local housing industry which is currently struggling to meet demand for new housing. The industry would be forced to look to non-local suppliers which are also struggling to meet demand and negatively impact on costs with the need to truck the necessary material from further afield. In consideration of the rationale provided, I believe that support of the existing business by permitting the requested lot addition does represent good long-term land use planning and addresses the need to provide "sufficient land" to "meet projected needs."

Prepared by:

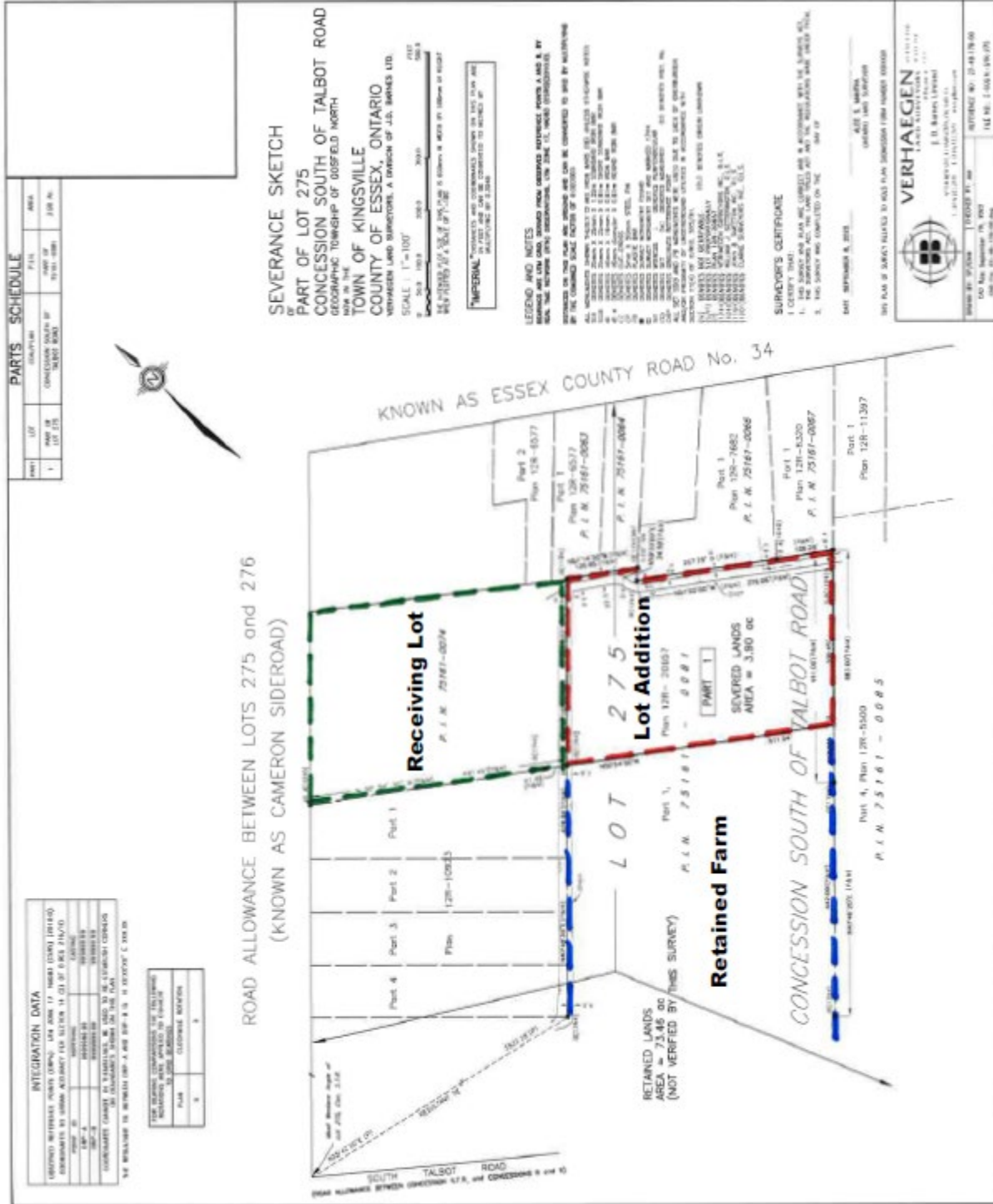


Robert Brown, H, Ba, MCIP, RPP
Principal Planner
Oakview Land Use Planning

Appendix A – Location Map



Appendix A-1 – Survey Detail



Appendix B – Soil Type

Field Sketch - Soil Type



0 0.4 km

N

Ontario

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Map Created : 10/13/2022
Map Center: 42.1481 N, -82.77445 W

Farm & Field Name Lot Addition - Soil Type Mapping	
911 Location 14 & 40 Cameron Sq Rd	
Upper Tier Municipality COUNTY OF ESSEX	
Lower Tier Municipality TOWN OF KINGSVILLE	
Geotownship Gosfield North	
Roll Number 3711 570 000 00700	
Lot 275	
Concession STR	
Notes	
Site Assessment Performed By R. Brown	
Site Assessment Date Oct 11, 2022	
Is the field tile drained	Yes
Tile inlets	Yes
Tile outlets	Yes
Surface water	No
Drilled wells	No
Other wells	No
Municipal wells	No
Areas where soil depth is < 30cm	No
Rock outcrops	No
Areas subject to ponding	No
Location of non-agricultural land uses	Yes