



**Date:** September 23, 2024

**To:** Mayor and Council

**Author:** Vitra Chodha, Town Planner

**RE:** Consent (B-2024-16) and Zoning By-law Amendment (ZBA-2024-8)  
for 3442 County Road 23

---

## **RECOMMENDED ACTION**

That consent application B-2024-16, to sever an existing dwelling, deemed surplus to the needs of the applicants' farming operation with an area of 1.88 ac (0.76 ha) shown as Part 2 & 4 on the applicants' sketch and to create a permanent easement in favour of the severed farm lot shown as Part 3 on the applicants' sketch, known as 3442 County Road 23, in the Town of Kingsville, **BE APPROVED**, subject to the following conditions:

1. That the necessary deed(s), transfer or changes be submitted electronically, signed and fully executed, including a copy of the reference plan, prior to certification.
2. That the Owner provide confirmation to the satisfaction of the Town that the new septic system on the property meets Ontario Building Code requirements and setbacks in relation to the revised lot line locations.
3. That the Owner obtain a permit from the County of Essex for a new driveway access for the retained farm lot on County Road 23 prior to consent being endorsed on the deeds
4. That, prior to consent being endorsed on the deeds, the property owners are to execute an agreement for drainage apportionment due to lands severance approved by the Municipality for each parcel being severed and provide us with a lot grading plan. Drainage Apportionment Agreement Request, 12R plan and lot grading plan shall be submitted to the Municipality a minimum of one month prior to the stamping of the deeds.
5. The conditions imposed above shall be fulfilled by September 23<sup>rd</sup>, 2026, or this application shall be deemed to be refused in accordance with Section 53(41) of the Planning Act.

That Zoning by-law application ZBA-2024-8, to amend the Comprehensive Zoning By-law 1-2014 for the Town of Kingsville, to amend the zoning on the retained farm parcel

municipally known as VL County Road 23 from 'General Agricultural (A1)' to 'Agricultural - Restricted (A2)' and the severed residential parcel known as 3442 County Road 23 from 'General Agricultural (A1)' to 'Rural Residential (RR)' **BE APPROVED**

That the corresponding Zoning By-law Amendment (By-law 71-2024) **BE ADOPTED**, during the By-law section of this Council agenda.

## **BACKGROUND**

The Town of Kingsville has received the above-noted applications for lands located on the east side of County Road 23, north of 3396 County Road 23 (see location map in Appendix A). The subject parcel is designated 'Agricultural' by the Official Plan and is zoned 'General Agricultural (A1)' under the Kingsville Comprehensive Zoning By-law.

The subject parcel is 50.0 acres (20.2 ha) with a frontage of approximately 337.2 m (1106.2 ft) and contains a dwelling with accessory structures. It is proposed that the dwelling and accessory structures deemed surplus to the owner's farming needs be severed on a new lot. The proposed severed parcel, shown as Part 2 & 4 on the applicant's survey (attached as Appendix B), has an area of 1.88 ac (0.76 ha). The applicant is also proposing a permanent easement on the severed surplus farm dwelling lot shown as Part 3 on the applicant's survey (attached as Appendix B), in favor of the retained farm lot for servicing.

As a result of the consent, an application to rezone the retained farm parcel from 'General Agricultural (A1)' to 'Agricultural- Restricted (A2)' and rezone the severed surplus farm dwelling lot from 'General Agricultural (A1)' to 'Rural Residential (RR)' are submitted in conjunction to prohibit future dwellings on the retained parcel and recognize the residential use on the severed parcel as per Provincial and Town policies.

## **DISCUSSION**

### **1) Provincial Policy Statement (PPS), 2020:**

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."

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) Town of Kingsville 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 dwelling conforms to the policies of Section 7.3.1, Agriculture Land Division, of the Official Plan. The proposed severed parcel is within the recommended size limit of 0.8 ha (1.97 ac.) or less.

The severed parcel, Parts 2 & 4 has an area of 0.76 ha (1.88 ac.) therefore the application conforms with Section 7.3.1 of the Kingsville Official Plan.

Section 7.3.1.2 c) of the Kingsville Official Plan that was amended on December 1<sup>st</sup>, 2023, states that "c) the surplus residential dwelling must have been in existence prior to the date of the adoption of this plan and in a habitable condition".

The proposed surplus farm dwelling to be severed was built before December 1<sup>st</sup>, 2023, and is in habitable condition, therefore the application conforms with Section 7.3.1.2 c) of the Kingsville Official Plan.

## **3) Comprehensive Zoning By-law**

The severed parcel, Part 2& 4, has an area of 0.76 ha (1.88 ac.) and frontage of 78.53 m (257.64 ft.) and will have access and frontage on County Road 23.

The retained parcel will have access and frontage on County Road 23.

There are no zoning issues created because of the creation of the surplus dwelling lot. 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 and the severed residential lot will be rezoned from Agricultural (A1)' to 'Rural Residential (RR)'

## **FINANCIAL CONSIDERATIONS**

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

## **ENVIRONMENTAL CONSIDERATIONS**

There are no anticipated environmental impact resulting from the severance of the dwelling from the farm parcel.

## CONSULTATIONS

### Public 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.

### 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 from circulated agencies.

- 1) **Essex Region Conservation Authority (ERCA)** (Appendix C - ERCA comments)
  - a. ERCA has no objections to the Consent and Zoning By-law amendment applications.
- 2) **Kingsville Technical Advisory Committee**
  - a. Septic review is required to determine if there is an existing septic system on each property and confirm that it meets Ontario Building Code requirements and setbacks.
  - b. Ensure all building services are contained within existing property lines and do not cross over into newly established property lines. Owner and/or consultant is required to provide verification that all services are maintained on the retained parcels and do not cross property lines.
  - c. A plan showing how both parcels are draining independently to a legal outlet and drainage apportionment agreement is required

### PREPARED BY:



---

Vitra Chodha  
Planner

### REVIEWED BY:



---

Richard J.H. Wyma CSLA  
Director of Planning and Development