

# Municipality of Lakeshore – Report to Council

## Growth and Sustainability

### Community Planning



**To:** Mayor & Members of Council

**From:** Ian Search, BES  
Planner I

**Date:** November 1, 2023

**Subject:** Zoning By-law Amendment ZBA-11-2023 – 3776 Comber Sideroad

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### Recommendation

Approve Zoning By-law Amendment Application ZBA-11-2023 (Zoning By-law 2-2012, as amended), to rezone the lands known legally as, Part of lots 7 and 8 Concession 3, Tilbury; designated as Parts 1, 2, 3, 5, 6, 7, 9, 10, 11, 12, 13 and 14, Plan 12R27973; subject to an easement over Parts 1, 2 and 3, Plan 12R27973 as in R628274; subject to an easement over Parts 2, 6, 10 and 13, Plan 12R27973 as in TN8528; subject to an easement over Parts 9, 10 and 11, Plan 12R27973 as in R590916; subject to an easement as in CE435333; subject to an easement as in CE510888; Town of Lakeshore, and known municipally as 3776 Comber Sideroad, from “Agriculture (A)” to “Agriculture Zone Exception 114 (A-114)” zone (indicated as “3776 Comber Sdrd Retained Land” on the Key Map, Attachment 1), in the Municipality of Lakeshore; and

Direct the Clerk to read By-law 90-2023 during the Consideration of By-laws, all as presented at the November 21, 2023 Council meeting.

### Background

The Municipality of Lakeshore has received a Zoning By-law amendment application for the property (farm parcel) known as 3776 Comber Sideroad, located on the eastern side of Comber Sideroad/County Road 35, north of County Road 42. The subject property is designated “Agriculture” in the Lakeshore Official Plan and zoned “Agriculture” under the Lakeshore Zoning By-law 2-2012.

A provisional consent (B-09-2023) was granted to sever a surplus dwelling lot from this farm parcel. As a condition of consent, the applicants are required to rezone the retained farmland to prohibit residential dwellings, as required in the Lakeshore Official Plan and Provincial Policy Statement. Additionally, the Lakeshore Zoning By-law requires a minimum lot area of 19 hectares for a farm parcel. The retained land will be 18.8 hectares following the severance. Therefore, the Zoning By-law Amendment will also recognize the deficient area of the retained land.

The Zoning of the property will be amended from Agriculture (A) to an Agriculture Zone Exception 114. The subject area to be rezoned is 18.8 hectares in area with 76 metres of frontage along Comber Sideroad/County Road 35.

Subject Land:	18.8 ha Existing Use – Agriculture Proposed Use – Agriculture and residential dwellings prohibited Access — Comber Sideroad/County Road 35 Services — Municipal water
Surrounding Uses:	North: Agriculture South: Agriculture East: Rural business West: Agriculture
Official Plan:	Agricultural
Existing Zoning:	Agriculture (A)

### **Provincial Policy Statement (PPS)**

The proposed rezoning application is consistent with the PPS. Section 2.3.4.1 requires the planning authority to ensure that new residential dwellings are prohibited on any remnant parcel of farmland created by a surplus farm dwelling severance. A provisional consent (B-09-2023) was granted to sever the surplus dwelling from this farm parcel as a separate lot. As a condition of consent, and as required by the PPS, the applicants are rezoning the retained farmland to prohibit residential dwellings.

### **County of Essex Official Plan**

The rezoning application conforms to the County of Essex Official Plan and is consistent with their land use policies:

#### **3.3.3.4 Lot Creation**

*c) Lot creation to accommodate a habitable residence surplus to a farming operation as a result of farm consolidation is permitted subject to the local Zoning By-law being amended, to prohibit new residential dwellings on the vacant remnant parcel of farmland created by the severance.*

### **Lakeshore Official Plan**

The subject property is designated Agricultural in the Lakeshore Official Plan, and the rezoning application conforms to the Agricultural Designation policies.

### 6.2.3 Agricultural Lot Creation & Lot Adjustment

*A consent to sever may be granted for the following purposes:*

*b) Where a previous or current farm acquisition has rendered a habitable farm dwelling surplus to the needs of a farm operation, subject to the following conditions:*

- i) the remnant farm parcel will be zoned so as to prohibit the construction of any additional dwellings;*
- ii) the non-farm parcel will be zoned to recognize the non-farm residential use and will not accommodate a livestock operation;*
- iii) any livestock facilities to remain on the retained parcel will not be made unsuitable for further livestock operations if the Minimum Distance Separation I provisions cannot be met; and*
- iv) the implementing Zoning By-law will not impose a setback on nearby expanding livestock operations greater than that required by the application of Minimum Distance Separation II Formula including the Minimum Distance Separation Guidelines.*

The application will prohibit the construction of any additional dwellings on the retained farmland in accordance with the Official Plan. The surplus dwelling lot will automatically be recognized in the Zoning By-law as a non-farm residential use that cannot accommodate a livestock operation due to its size. There are no livestock facilities on the retained land and no known facilities in the general area of the severed lot.

### **Lakeshore Zoning By-law**

The subject property is currently zoned Agriculture (A), in the Lakeshore Zoning By-law 2-2012, as amended.

In order to satisfy the condition of the provisional consent to sever a surplus dwelling the farm parcel (File: B/09/2023), a Zoning By-law Amendment Application has been submitted to rezone the remnant parcel to prohibit residential dwelling units and recognize the deficient lot area of the farming parcel.

As a result of the surplus severance the retained farmland is deemed slightly deficient given that it will be 18.8 hectares in area with 76 metres of frontage along Comber Sideroad/County Road 35. The Lakeshore Zoning By-law 2-2012, as amended requires a minimum lot area of 19 hectares for farm parcels. The retained farmland will be rezoned into a site-specific zoning "Agriculture Zone Exception 114 (A-114)" that recognizes the deficient lot size and prohibits the construction of residential dwellings.

### **Comments**

The application was circulated to internal departments and external agencies. Comments received are summarized below:

The County of Essex did not express any objection to the application. They note that the setback requirement from the County Road is 85 feet from the centre of the right of way, and that permits are necessary for any changes to existing entrances and structures, or the construction of new entrances and structures. Full Comments can be found in Appendix B.

The Essex Region Conservation Authority (ERCA) stated that they have no objection to the proposal. Full comments can be found within Appendix C.

The Operations Department states that consultation with the County of Essex is required regarding any County approval/permits for any new entrances (including farm access) pertaining to the retained farmland. It is noted that the County of Essex has provided prior correspondence confirming an existing access for the retained farmland south of the severed lot. Full comments can be found in Appendix D.

## **Conclusion**

Based on the foregoing, it is recommended that Council approve ZBA-11-2023 (By-law 90-2023) as per the Recommendation section of this report.

## **Others Consulted**

Notice was given to agencies and the general public as required under the provisions of the *Planning Act* and regulations. As of the writing of this report, no comments were received from the public and no concerns were expressed from any agencies.

## **Financial Impacts**

There are no budget impacts resulting from the recommendation.

## **Attachments**

Appendix A – Key Map  
Appendix B – County of Essex comments  
Appendix C – ERCA comments  
Appendix D – Operations comments

## Report Approval Details

Document Title:	ZBA-11-2023 - 3776 Comber Sideroad.docx
Attachments:	<ul style="list-style-type: none"><li>- Appendix A - Key Plan.pdf</li><li>- Appendix B - County of Essex comments.pdf</li><li>- Appendix C - ERCA comments.pdf</li><li>- Appendix D - Operations Comments.pdf</li></ul>
Final Approval Date:	Nov 14, 2023

This report and all of its attachments were approved and signed as outlined below:

Prepared by Ian Search

Submitted by Sahar Jamshidi and Tammie Ryall

Approved by Justin Rousseau and Truper McBride