

Municipality of Lakeshore – Report to Council

Growth and Sustainability

Planning Services



To: Mayor and Members of Council

From: Ian Search, BES, Planner I

Date: October 22, 2024

Subject: Zoning By-law Amendment (ZBA-17-2024) – 12100 Lakeshore Road 303

Recommendation

Approve Zoning By-law Amendment Application ZBA-17-2024 (Zoning By-law 2-2012, as amended), to rezone the lands known legally as, Part of Lot 12, Concession 2, Tilbury, designated as Parts 1 to 3 on Plan 12R-5779, save and except Part 1 on Plan 12R29856; Lakeshore, being part of the Property Identifier Number 75066-0088(LT), and known municipally as 12100 Lakeshore Road 303, from “Agriculture (A)” to “Agriculture Zone Exception 120 (A-120)” zone (indicated as “12100 Lakeshore Rd 303 Retained Land” on the Key Map, Appendix B), in the Municipality of Lakeshore; and

Direct the Clerk to read By-law 107-2024 during the Consideration of By-laws, all as presented at the November 19, 2024 Council meeting

Strategic Objectives

This does not relate to a Strategic Objective; however, it is a core service of the Municipality.

Background

The Municipality of Lakeshore has received a Zoning By-law Amendment application for the farm property known municipally as 12100 Lakeshore Road 303. The property is zoned “Agriculture” in the Lakeshore Zoning By-law 2-2012. It is currently a 23.47 acre (9.5 hectare) farm located north of County Road 42, south of County Road 2, at the northwest corner of County Road 37 (Gracey Sideroad) and Lakeshore Road 303 (Appendix A).

A provisional consent (file: B-01-2024) was granted from the Lakeshore Committee of Adjustment on April 17, 2024 to sever a surplus farm dwelling from 12100 Lakeshore Road 303 as a separate residential lot, indicated as Part 1 on Plan 12R-29856 (Appendix C). The lot to be severed will have an area of 3.24 acres (1.31 ha) and a lot frontage of 85.34 metres (280 feet), which will incorporate a dwelling and accessory structures (Appendix D).

As a condition of the provisional consent, the applicants are applying to rezone the retained farmland parcel to prohibit residential dwellings and additional residential units on the retained farmland parcel (Appendix B), as required in the Lakeshore Official Plan and Provincial Planning Statement. Additionally, the applicants are applying to rezone the retained farmland parcel to recognize its deficient area (8.1 hectares/20.01 acres) following the severance. The Lakeshore Zoning By-law 2-2012 requires a farm parcel to have a minimum lot area of 19 hectares/46.95 acres. It is noted that the subject property today is only 9.5 hectares/23.47 acre in area.

Subject Land: 23.47 acres (9.5 hectares)
Existing Use – Agriculture with dwelling
Proposed Use – Agriculture and one rural residential lot
Access — Lakeshore Road 303
Services — Municipal water, private sanitary

Surrounding Uses: North: Agriculture, Canadian Pacific Limited right-of-way
South: Agriculture, rural residential lots
East: Agriculture
West: Agriculture, rural residential lots

Official Plan: Agricultural

Existing Zoning: Agriculture (A)

Comments

The application was circulated to internal departments and no objections to the rezoning were received as of the date of this report.

Provincial Planning Statement (PPS) (2024)

The proposed rezoning application is consistent with the PPS. Subsection 4.3.3 c) 2. requires the planning authority to ensure that new dwellings and additional residential units are prohibited on any remnant parcel of farmland created by the surplus farm dwelling severance. A provisional consent (B-01-2024) was granted to sever a surplus dwelling from the farm as a separate lot. As a condition of consent, and as required by the PPS, the applicants are rezoning the retained farmland parcel to prohibit dwelling(s). In doing so, additional residential units will also be prohibited from developing on the retained farmland parcel, in accordance with the PPS.

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 parcel in accordance with the Official Plan. The surplus dwelling lot will automatically be recognized in the Zoning By-law for non-farm residential use that cannot accommodate a livestock operation due to its lot size because it is under 4 ha (9.88 acres). There are no livestock facilities on the retained farmland parcel 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. The retained farmland parcel will be rezoned into an Agriculture Zone Exception (A-120) to prohibit dwelling(s) and recognize the deficient lot area of this parcel following the severance. The retained farmland parcel will be 8.1 hectares/20.01 acres following the severance, whereas the Lakeshore Zoning By-law requires a farm parcel to have a minimum lot area of 19 hectares/46.95 acres.

The surplus dwelling lot will meet the minimum frontage and area requirements for a rural residential lot zoned Agriculture (A) – no rezoning of this parcel is necessary.

Conclusion

Based on the foregoing, it is recommended that Council approve ZBA-17-2024 (By-law 107-2024) 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, comments were received from Essex Region Conservation Authority (ERCA), Lower Thames Valley Conservation Authority (LTVCA), Canadian Pacific Kansas City (CPKC), and the Engineering Technologist at the County of Essex.

ERCA stated that they have no objection to the Zoning By-law Amendment (Appendix E). LTVCA stated in correspondence that if development is proposed on the retained farmland in proximity to the 2nd Concession Drain Outlet located at the east end of the parcel, then a permit from their office may be required as it would relate to the drainage feature.

CPKC is not in favour of residential uses that are incompatible with rail operations as the safety and welfare of residents can be adversely affected by rail operations. CPKC's approach to any development or expansion in the vicinity of rail operations is encapsulated by the recommended 2013 Proximity Guidelines developed through collaboration between the Railway Association of Canada and the Federation of Canadian Municipalities. Full comment can be found in Appendix F.

Comment: There is no development currently proposed beyond the creation of a rural residential lot for a surplus farming dwelling severance. The dwelling has existed on the severed lot for many years and appears to be setback approximately 110 metres/360 feet from the railway right-of-way, while section 6.50 of the Zoning By-law requires dwellings to be setback 30 metres. Additionally, the Zoning By-law amendment will prohibit the development of dwelling(s) on the retained farmland parcel.

The Engineering Technologist at the County of Essex commented that no new access will be permitted off County Rd 37. The setback from County Road 37 is 85 feet (25.9

metres) from the centre of the right of way. Permits are necessary for any changes to existing structures, or the construction of new structures.

Comment: The retained farmland parcel has its own existing access from Lakeshore Road 303 according to the consent application (file: B-01-2024).

Financial Impacts

There are no budget impacts resulting from the recommendation.

Attachments

- Appendix A – Aerial Map
- Appendix B – Key Map
- Appendix C – Registered Survey
- Appendix D – Draft Survey
- Appendix E – ERCA
- Appendix F – CPKC
- Appendix G – County of Essex

Report Approval Details

Document Title:	ZBA-17-2024 - 12100 Lakeshore Road 303.docx
Attachments:	- Appendix A - Aerial Map.pdf - Appendix B - Key Map.pdf - Appendix C - Registered Survey.pdf - Appendix D - Draft Survey.pdf - Appendix E - ERCA.pdf - Appendix F - CPKC.pdf - Appendix G - County of Essex.pdf
Final Approval Date:	Nov 12, 2024

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

Prepared by Ian Search

Submitted by Urvi Prajapati and Tammie Ryall

Approved by the Corporate Leadership Team