

Municipality of Lakeshore – Report to Council

Growth & Sustainability

Community Planning



To: Mayor & Members of Council

From: Urvi Prajapati, BEDP, MES
Planner 1

Date: March 16, 2022

Subject: Zoning By-law Amendment ZBA-27-2021 – 1431 County Road 31

Recommendation

Approve Zoning By-law Amendment Application ZBA-27-2021 (By-law No. 28-2022) to amend Municipality of Lakeshore By-law 2-2012 to prohibit the construction of a residential dwelling on the remnant farmland located at 1431 County Road 31 (legally described as Part of Lot 14, Concession 4, Rochester, as in R363445, except Part 1 on Plan 12R8827; subject to R586339; subject to an easement in gross over Parts 1-6, inclusive, Plan 12R22390; Town of Lakeshore being all of the Property Identifier Number 75053-0111(LT)) by changing the zoning from Agriculture (A) to Agriculture Zone Exception 1 (A-1) to allow for agriculture uses only, as presented at the March 29, 2022 Council meeting.

Background

Recently, a provisional consent (File: B/34/2021) was granted to sever a surplus dwelling lot from the farm parcel located at 1431 County Road 31. Condition #4 of the Consent was that the applicant obtain a Zoning By-law amendment respecting the remnant farm parcel to prohibit the construction of a residential dwelling. In order to meet the conditions of the provisional consent, the applicants have submitted an application to rezone the remnant (retained) farmland, zoned Agriculture (A) to Agriculture Zone Exception 1 (A-1) uses only.

As a result of the surplus lot creation, the severed lot is automatically recognized for its non-farm residential use, as long as it is under 4 hectares (9.88 acres) in area. As the surplus farm lot is under 4 ha., there is no need to rezone the severed lot.

Proposal

The proposed zoning by-law amendment application affects the retained lot north and west of the surplus lot with an area of 38.80 ha (95.9 acres). The parcel of land is located south of County Rd. 42, east of Lakeshore Rd. 125 and west of County Rd. 31. The surrounding properties include agricultural land of varying sizes. The legal

description of the land is Con 4 N PT Lot 14, Rochester, as in R363445, except Part 1 on Plan 12R8827; subject to R586339; subject to an easement in gross over Parts 1-6, inclusive, Plan 12R22390; Town of Lakeshore being all of the Property Identifier Number 75053-0111(LT). A part of the surplus lot is regulated by Essex Region Conservation Authority (ERCA).

Subject Land: (1431 County Road 31)	38.80 ha (95.9 acres) Existing Use – Farming/Agriculture Proposed Use – impose a zone amendment to prohibit residential dwellings and continue practicing agriculture. Access — County Road 31 Services — municipal water, septic, storm drainage: ditches
Neighbouring Land Uses:	North: Agricultural Lands South: Agricultural Lands East: Agricultural lands/ Significant Lands/Woodlands West: Agricultural lands
Official Plan:	Agricultural
Existing Zoning:	Agricultural (A)

Comments

Provincial Policy Statement

The proposed application was reviewed under the lot creation and lot adjustments agricultural policies of the 2020 Provincial Policy Statement (PPS) and it was determined that the proposal is consist with the below policies:

2.3.4 Lot Creation and Lot Adjustments

2.3.4.1 Lot creation in prime agricultural areas is discouraged and may only be permitted for:

- c) *“a residence surplus to a farming operation as a result of farm consolidation,” to be severed “provided that:*
 2. *the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance.”*

2.3 Agriculture

2.3.3 Permitted Uses

2.3.3.1 *In prime agricultural areas, permitted uses and activities are: agricultural uses, agriculture-related uses and on-farm diversified uses.*

- *“Proposed agriculture-related uses and on-farm diversified uses shall be compatible with, and shall not hinder, surrounding agricultural operations. Criteria*

for these uses may be based on guidelines developed by the Province or municipal approaches, as set out in municipal planning documents, which achieve the same objectives.”

2.3.3.2 In prime agricultural areas, all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards.

Therefore, the proposal is consistent with the Provincial Policy Statement.

County of Essex Official Plan

The proposal conforms to the County of Essex’s Official Plan and is consistent with their land use policies.

Municipality of Lakeshore Official Plan

The site is designated as Agricultural in the Lakeshore Official Plan. The majority of lands within the Municipality are designated Agricultural and consist entirely of prime agricultural lands. The following criteria of the agricultural land use applies:

6.2.1 Permitted Uses

“a) The primary use of land will be for agricultural uses, agriculturally-related uses and secondary agricultural uses including: the growing of crops, including nursery and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including accommodation for full-time farm labour when the size and nature of the operation requires additional employment; conservation uses; resource extraction, resource-based, and compatible uses.”

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;”**

Hence, the application is to rezone the remnant farm parcel to prohibit the construction of any dwellings and therefore conforms to the land use and consent policies of the Lakeshore Official Plan.

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/34/2021), a Zoning By-law Amendment Application has been submitted to rezone the remnant parcel from Agriculture (A) to Agriculture Zone Exception 1 (A-1) to prohibit dwelling units on it. The Lakeshore Zoning By-law 2-2012, as amended defines Agriculture as the following:

“AGRICULTURAL USE – shall mean the cultivation of land, the production of crops and the selling of such produce on the premises, and the breeding and care of livestock and the selling of such livestock or the product of such livestock raised on the premises, and without limiting the generality of the foregoing includes aviaries, apiaries, fish farming, animal husbandry, the raising of birds, fish and fur bearing animals, horses, riding stables, horse training tracks, agricultural research stations and the raising and harvesting of field, bush, or tree crops, market gardening, nurseries, and greenhouses. However, agricultural use does not include facilities for the permanent or temporary housing of persons employed on the lot and, does not include a marihuana for medical purpose production facility and industrial hemp production facility.”

Regulations of the A-1 Zone

9.20.1 Agriculture Zone Exception 1 (A-1) a) Permitted Uses:

- a) *A single detached dwelling shall be prohibited.*
- b) *Zone Regulations: The minimum lot area shall be it legally existed on the date of the passing of this By-law. All other lot and building requirements shall be in accordance with the A zone.*

Correspondence from external and internal agencies

The application was circulated to external and internal agencies and the County of Essex submitted the following comments:

“Comments are engineering-related only and the application has not been reviewed from a planning perspective. The subject lands have frontage on County Road No.31. The Applicant will be required to comply with the following County Road regulation:

County By-Law Number 2481 – A By-Law to Provide for the Protection of Highways and to Provide for the Installation of Entrance Ways.

County By-Law Number 2480 – A By-Law of the Corporation of the County of Essex to Regulate the Location of Buildings and Structures on Land Adjacent to County Roads.

Where the property fronts Durocher Drain Branch, the minimum setback for any proposed structures on this property must be 110 feet from the centre of the original ROW of County Road No.31. Where the drain is not present the minimum setback will be 85 feet. Permits are necessary for any changes to existing entrances and structures, or the construction

of new entrances or structures. No new access will be permitted off County Road No. 31.

We are requesting a copy of the Decision of the aforementioned applications. Should these applications be approved we are requesting a copy of the revised survey plan of the subject lands in order to update our mapping records.”

Comment – As no new buildings or structures are proposed, the application meets the requirements of the County Engineering Services. Administration will provide the decision and the survey as requested. The County comments will be provided to the owner for their information.

Conclusion

Administration recommends approval of the zoning by-law amendment, as it is consistent with the Provincial Policy Statement and conforms to the County of Essex and the Lakeshore Official Plans.

Based on the foregoing, Administration recommends that Council approve ZBA-27-2021 (Bylaw 28-2022).

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 Plan

Report Approval Details

Document Title:	Zoning By-law Amendment ZBA-27-2021 – 1431 County Road 31.docx
Attachments:	- Key Plan.png
Final Approval Date:	Mar 24, 2022

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

Aaron Hair

Tammie Ryall

Justin Rousseau

Kristen Newman

Truper McBride