

Municipality of Lakeshore – Report to Council

Growth & Sustainability

Community Planning



To: Mayor & Members of Council

From: Ian Search, Planner II

Date: August 30, 2022

Subject: Zoning By-law Amendment Application ZBA-4-2022, John Thomas and Ruth Ann Fuerth

Recommendation

Defer Zoning By-law Amendment Application ZBA-4-2022 (Bylaw 75-2022) to remove the Holding Symbol (h6) from the subject lands (indicated on the Key Plan, Appendix A) for two years or earlier to allow a drainage outlet to be created under the *Drainage Act* to accommodate the provisional consent as presented at the September 13, 2022 Council meeting.

Background

The subject property is a 27.19 hectare (67.19 acre) parcel of farmland located south of County Road 46 on the northeast corner of County Road 27 and S. Middle Road, known municipally as 2462 County Road 27 (See Appendix '1').

The subject property is designated "Agricultural" and "Hamlet" in the Lakeshore Official Plan. In the Lakeshore Zoning By-law, it is split zoned Agriculture (A) and Hamlet Residential (HR) holding symbol h6. Existing uses are the only uses permitted in the HR(h6) zone until the holding symbol is removed. The condition for removal of the holding symbol is:

"that adequate sewage disposal and the provision of other services has been accommodated in accordance with Section 7.0 of the Town of Lakeshore Official Plan, development applications are approved, various agreements are in place, plans of subdivision or condominium are approved, where necessary".

Recently, provisional consent (File: B/4/2022) was granted to sever three residential lots from the farm parcel. The lots will have frontage on S. Middle Road between Church Street and County Road 27. They will be located within the portion of the subject property designated "Hamlet" and zoned HR(h6). In order to meet conditions of the provisional consent, the applicant submitted a rezoning application to remove the holding symbol from the zoning affecting the severed lots. Removal of the hold symbol would allow each

of the severed lots to be developed for the permitted uses under the Hamlet Residential (HR) zone once they are registered.

August 9th Council Meeting

The Zoning By-law Amendment to remove the holding symbol was brought forward to Council at the August 9th Council meeting. Prior to that meeting, concerns were received from the Operations Department regarding the need for drainage works to establish a legal drainage outlet for the approved lot creations. Council made a decision to defer consideration of the application to the September 13, 2022 Council meeting and directed Administration to prepare a plan regarding how to expedite the holding symbol removal.

The subject property currently outlets directly into a roadside drain on South Middle Road which is managed and maintained by the Municipality. Development of the three severed lots represents a change in land use from agriculture to residential that will create additional stormwater runoff. A sufficient legal outlet must be created to accommodate the proposed plan. This will address any adverse impacts that additional runoff may have from these lots.

The applicant will establish a sufficient legal outlet for the lots under the Drainage Act to the satisfaction of the Municipality. Specifically, a connection into the Croson Drain (a municipal drainage system) located on the south side of South Middle Road will be established that spans the length of the frontage of all the three lots. This work is to be completed prior to officially registering the lots.

The Operations Department is requiring an enclosure of the drain in order for the new connection to be satisfactory. Drain enclosure is the preferred methodology for the following reasons:

- Drain enclosures are more cost effective than constructing individual culverts for each lot
- Drain enclosures have long life expectancy and require less maintenance as the underground infrastructure is protected and undisturbed
- An open drain requires more routine maintenance from the landowner including mowing of challenging slopes and potential for stagnant water
- An open drain requires monitoring and sediment removal

Removing the holding symbol from the zoning affecting the severed lots will only be appropriate after a sufficient legal outlet is established for the drainage of the lots. The condition for removal of the holding symbol requires that the provision of services is accommodated in accordance with Section 7.0 of the Lakeshore Official Plan, which includes stormwater management. The Operations Department is working with the proponent in expediting the process for the required drainage works which has already commenced.

Under subsection 53 (23) of the *Planning Act*, Community Planning will also be bringing forward a report to the Committee of Adjustment requesting that they add the drainage

works as a condition to their provisional consent approval. The draft wording of this condition is as follows:

"The applicant is required to initiate and complete work under Section 4 under the Drainage Act to the satisfaction of the Municipality. This is required to create a subsequent connection into the Croson Drain (a municipal drainage system) located on the south side of South Middle Road. The subsequent connection is required to span the length of the frontage of all the proposed 3 properties and shall be completed prior to the stamping of the deed."

The applicant currently has until March 18, 2024 to fulfil their conditions of provisional consent approval. If the Committee of Adjustment makes the decision to change the conditions of the provisional consent approval by adding the recommended condition, then the applicant will have two years from the date notice is given of the change to satisfy the conditions of provisional consent approval. Administration is planning on bringing the request to the Committee of Adjustment at their September 14th meeting.

Severed Lots	Lot Area – two lots each 0.381 acres, one lot 0.559 acres Existing Use – Agriculture Proposed Use – Residential Access – S. Middle Road Services – Municipal water and sanitary services
Neighbouring Land Uses	North – Agricultural South - Residential East – Residential, Parkland West – Residential
Official Plan	"Agricultural" and "Hamlet"
Zoning By-law	Agriculture Zone (A) and Hamlet Residential (HR(h6))

Comments

Provincial Policy Statement, County of Essex Official Plan and Lakeshore Official Plan

There are no issues of provincial significance raised by this application.

The subject property is designated "Secondary Settlement Area" in the County of Essex Official Plan. All types of land uses are permitted within the "Secondary Settlement Area" subject to specific land use policies of the local Official Plan. Infill development of this nature is permitted.

The subject property is designated "Agricultural" and "Hamlet" in the Lakeshore Official Plan. Development of the severed lots will occur entirely within the portion of the subject property designated "Hamlet", which permits low density residential dwellings.

Essex Region Conservation Authority (ERCA) was circulated the proposal for comment. No comments were received from this agency at the time of writing this report. ERCA was circulated the consent application when the proposal was considered by the Committee of Adjustment and stated they had no objection to the lot creations.

Zoning By-law

Development of the severed lots will occur entirely on lands zoned HR(h6). Removal of the holding symbol was imposed as a condition by the Committee of Adjustment on their approval of the lot creations.

The condition for removal of the holding symbol is “that adequate sewage disposal and the provision of other services has been accommodated in accordance with Section 7.0 of the Town of Lakeshore Official Plan, development applications are approved, various agreements are in place, plans of subdivision or condominium are approved, where necessary”.

The availability of municipal water and sanitary services has been confirmed. The applicant applied through the consent process for lot creation and obtained provisional consent from the Committee of Adjustment earlier this year. In terms of services for stormwater management, the Operations Department is working with the proponent in expediting the process for the required drainage works which has already commenced.

Conclusion

Based on the foregoing, Administration recommends that Council defer ZBA-4-2022 (Bylaw 75-2022) for two years or earlier, as per the Recommendation section of the report.

Should Council wish to approve the application, a By-law removing the holding provision will be prepared for the next Council meeting.

Others Consulted

Notice was given to agencies and the general public as required under the provisions of the *Planning Act* and Regulations for the August 9th Council meeting.

Financial Impacts

There are no budget impacts resulting from the recommendation.

Attachments

Appendix A – Key Plan

Appendix B – Reference Plan

Report Approval Details

Document Title:	ZBA-4-2022 - Fuerth H Removal - Revisited.docx
Attachments:	- Appendix A - Key Plan.pdf - Appendix B - Registered Plan.pdf
Final Approval Date:	Sep 8, 2022

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

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Approved by Krystal Kalbol, Justin Rousseau and Truper McBride