

Municipality of Chatham-Kent

Community Development

Planning Services

To: Mayor and Members of Council
From: Ryan Jacques
Planner I, Planning Services
Date: January 11, 2018
Subject: Planning Services Report

Application Details

Application: Zoning By-law Amendment
(File D-14 HA/48/17/S)
CityView #: PL201700185
Applicant: Robert Glen Stewart
Location: Creek Road
Part Lot 4, Concession 3, RTS
Roll Number: 3650 140 001 40500
Community: Harwich (South Kent)



Recommendation

It is recommended that:

1. Zoning By-law Amendment application D-14 HA/48/17/S to rezone the subject property from Agricultural (A1) to Agricultural (A1-1), and from Agricultural (A1-1) to Agricultural (A1-1437) and Hazard Land (HL), on Creek Road, in Part of Lot 4, Concession 3 RTS, in the Community of Harwich, be approved, and the implementing by-law be adopted.

Description of Proposal

The subject property is located on both sides of Creek Road between Indian Creek Line and English Line, in the Community of Harwich, consisting of the following two parcels, both of which are owned by the applicant:

- a) A parcel located north of Creek Line, approximately 18.5 ha (45.7 ac.) in area, and zoned Agricultural (A1), and designated Agricultural in the Official Plan.
- b) A parcel located south of Creek Line, approximately 6.9 ha (17.1 ac.) in area, and zoned Agricultural (A1-1), and designated Agricultural in the Official Plan.

The applicant proposes to add a single detached dwelling as a permitted use to the parcel south of Creek Line. A single detached dwelling is not currently permitted under the A1-1 zoning. To achieve this the following amendments to the zoning by-law are required:

- a) Rezone the parcel located north of Creek Line to a site-specific Agricultural (A1-1) zone. Residential dwellings will no longer be permitted on this parcel, and
- b) Rezone portion of the parcel located south of Creek Line (approximately 4.6 ha (11.4 ac.) in area), to a site-specific Agricultural (A1-1437) zone. This zone will permit one residential dwelling and establish appropriate regulations.
- c) Rezone the remaining portion of the parcel located south of Creek Line (approximately 2.3 ha (5.7 ac.) in area) to the Hazard Land (HL) zone in order to recognize the flood constraint areas of the property near McGregor's Creek.

A key map showing the location of the subject property is attached as Appendix A, photographs of the subject property are attached as Appendix B.

Consultation

Internal

Technical Advisory Committee (TAC)

The Technical Advisory Committee supports the application.

External Consultation

Lower Thames Valley Conservation Authority (LTVCA)

The Lower Thames Conservation Authority has reviewed the application and has no objection to this proposal. An application to the LTVCA is required for any works taking

place within the regulated area along McGregor's Creek. Complete comments from the LTVCA are attached as Appendix C.

Areas of Strategic Focus and Critical Success Factors

The recommendation in this report support the following areas of strategic focus:

- Economic Prosperity:
Chatham-Kent is an innovative and thriving community with a diversified economy
- A Healthy and Safe Community:
Chatham-Kent is a healthy and safe community with sustainable population growth
- People and Culture:
Chatham-Kent is recognized as a culturally vibrant, dynamic, and creative community
- Environmental Sustainability:
Chatham-Kent is a community that is environmentally sustainable and promotes stewardship of our natural resources

The recommendation in this report support the following critical success factors:

- Financial Sustainability:
The Corporation of the Municipality of Chatham-Kent is financially sustainable
- Open, Transparent and Effective Governance:
The Corporation of the Municipality of Chatham-Kent is open, transparent and effectively governed with efficient and bold, visionary leadership
- Has the potential to support all areas of strategic focus & critical success factors
- Neutral issues (does not support negatively or positively)

Planning Analysis

- Provincial Policy Statement (PPS):
The proposal is consistent with the PPS
- Chatham-Kent Official Plan:
The proposal conforms to the Chatham-Kent Official Plan

Comments

Provincial Policy Statement (PPS)

This application does not raise any issues of provincial interest. Section 2.3.1, Agriculture, of the PPS sets out that prime agricultural areas shall be protected for long-term use for agriculture. Residential dwellings are permitted in agricultural areas as an accessory use.

Official Plan

The Chatham-Kent Official Plan does not contain policies specific to the reallocation of development rights from one agricultural parcel to another, as contemplated by the proposed zoning by-law amendment. However, it is important that clear planning principles form the basis of the recommended zoning by-law amendment. The Official Plan contemplates the reallocation of development rights under Section 2.3.6.2.13, Primary Urban Centres. This policy outlines criteria for the re-designation of prime agricultural land for urban development. It is the intent of these policies to allow for non-agricultural growth and development, while protecting agricultural areas for long-term use for agriculture. Therefore, relevant criteria can be applied to the proposed zoning by-law amendment. These criteria are discussed below:

- 1) The proposal shall not negatively impact cultural heritage resources.

Comment: The proposal does not negatively impact cultural heritage resources. Prior archaeological assessments conducted on the property did not indicate that significant cultural resources were present.

- 2) The proposal shall not comprise specialty crop areas, and if agricultural lands are to be included, it must be demonstrated that there are no reasonable alternatives that avoid prime agricultural areas and no reasonable alternatives on lower priority agricultural lands in prime agricultural areas.

Comment: The proposal represents an alternative to the existing zoning whereby the location of a permitted dwelling will be restricted to an undersized, and irregular shaped parcel.

- 3) The proposal shall have regard for the appropriate separation of incompatible land uses.

Comment: The proposal will provide greater separation between agricultural and non-agricultural land uses.

- 4) The proposal shall satisfy the Minimum Distance Separation Formulae (MDS), and impacts on agricultural areas are mitigated to the extent feasible.

Comment: The proposal satisfies MDS.

- 5) The lands must be reduced equal to the amount of land being reallocated.

Comment: The proposal represents a net increase in agricultural land zoned to prohibit residential dwellings by a factor of approximately 4:1.

The Official Plan also contains flood protection policies which apply to the proposed zoning by-law amendment due to the proximity of McGregor's Creek along the southerly edge of the subject property. These policies include:

4.5.3.1 *Protect people and property from natural hazard in Chatham-Kent.*

4.5.3.2.6 *Hazard Areas will be zoned in the implementing Zoning By-law for Chatham-Kent.*

The recommended rezoning of the flood constraint areas will ensure that the Municipality's interests in this regard are protected.

Zoning By-law

The zoning by-law amendment will implement the following changes:

- 1) The parcel located north of Creek Line, currently zoned Agricultural (A1), will be rezoned to a site-specific Agricultural (A1-1) zone. Residential dwellings will no longer be permitted on this parcel.
- 2) A portion of the parcel located south of Creek Line, currently zoned Agricultural (A1-1), will be rezoned to a site-specific Agricultural (A1-1437) zone. This zone will permit one residential dwelling and establish appropriate regulations.
- 3) The remainder of the parcel located south of Creek Line, currently zoned Agricultural (A1-1), will be rezoned to the Hazard Land (HL) zone in order to recognize the flood constraint areas of the property.

Conclusion

The proposed application for zoning by-law amendment has been reviewed in the context of the Provincial Policy Statement, Chatham-Kent Official Plan, and Chatham-Kent Zoning By-law, and will comply with these documents, if approved. Therefore, the application is being recommended for approval as noted in the Recommendation section of this report.

Prepared by:



Ryan Jacques, MCIP, RPP
Planner I, Planning Services

Reviewed by:

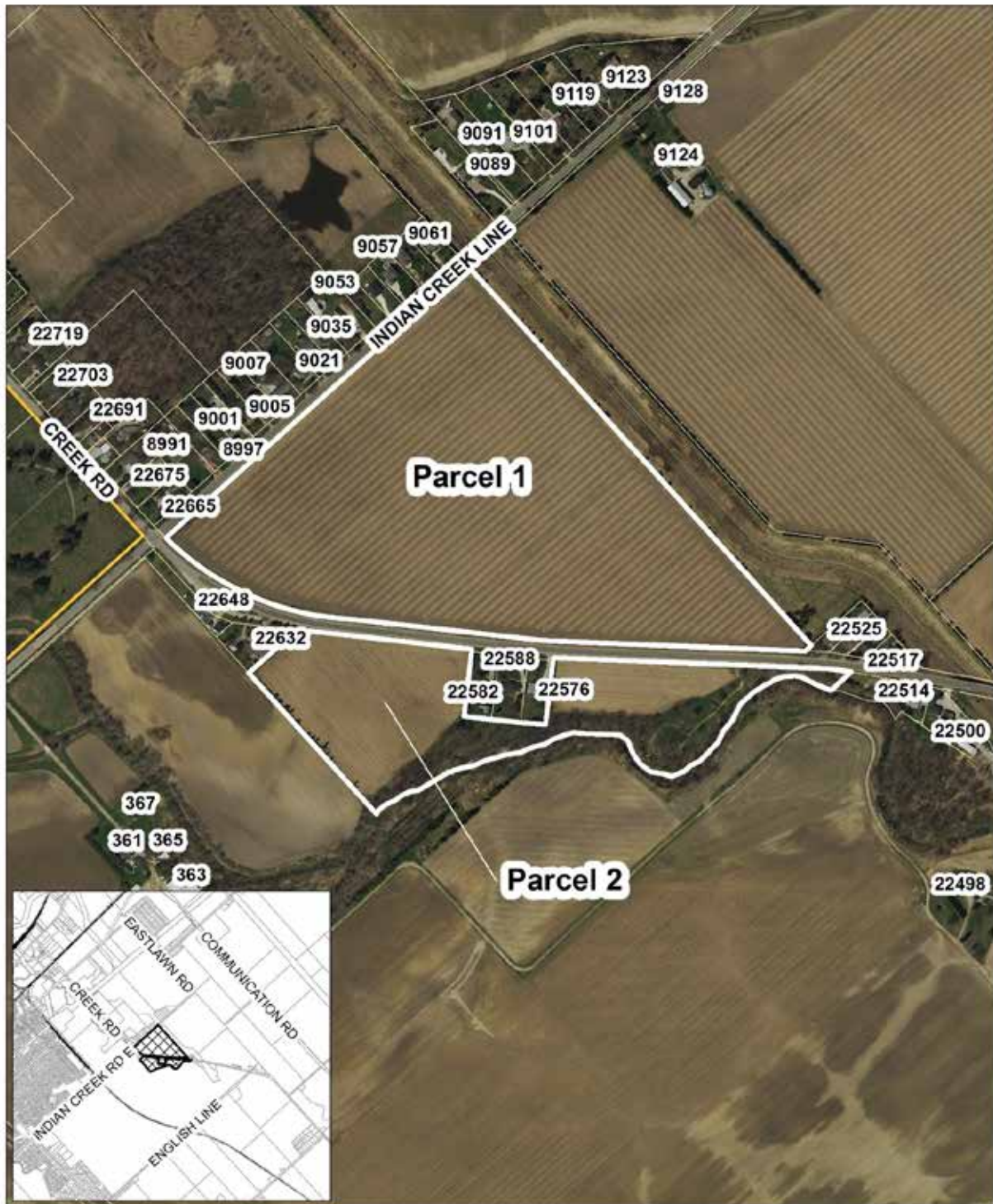


Bruce McAllister, MCIP, RPP
Director, Planning Services

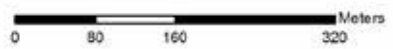
Attachments: Appendix A – Key Map
Appendix B – Subject Property
Appendix C – LTVCA Comments
By-law to Amend Zoning By-law 216-2009

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Report.docx

Appendix A – Key Map



This is not a plan of survey
INCLUDES MATERIALS © 2015 OF THE COURTESY PREPARED FOR CANTON. ALL RIGHTS RESERVED.



Appendix B – Subject Property



Looking northeast across the subject property.



Looking southwest across the subject property.

Appendix C – LTVCA Comments



January 10, 2018

Municipality of Chatham-Kent
315 King Street West, Box 640
Chatham, ON N7M 5K8

Attn: **Ryan Jacques**

Re: **Zoning By-law Amendment HA/48/17/S
Creek Road (Stewart)
Part Lot 4, Concession 3 RTS
Community of Harwich
Municipality of Chatham-Kent**

Please be advised that the above mentioned application has been reviewed by this office. The Conservation Authority is responsible for addressing the Natural Hazard Section of the Provincial Planning Policy Statement as well as the Conservation Authority's Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation, R.S.O. 152/06 under the Conservation Authorities Act. After reviewing our files and mapping, staff determined that the property in question is subject to the Authority's Development and Alteration to Watercourses portion of the regulations. The issue of concern in this area is McGregor Creek, stable slopes, flooding and erosion.

An application from this office is required prior to any works/construction taking place within the regulated area, this includes residential structures, pools, accessory structures, site alteration, fill placement/extraction, etc. The lands are subject to flooding under regulatory storm conditions. Any proposed structure(s) will be required to be flood proofed to a minimum elevation for the lowest openings into structure(s) (this includes crawlspace / basement windows). Setbacks from McGregor Creek, outside of the flood way, will also be required to any proposed structure (including residences, pools, sheds, barns, etc).

Please be advised that a portion of the subject property is located in an area with a Highly Vulnerable Aquifer [HVA] as identified through the Lower Thames Valley Assessment Report in the Thames, Sydenham and Region Source Protection Region. For further information regarding this matter and how it may affect any proposed development please refer to the Thames, Sydenham and Region Source Protection website at www.sourcewaterprotection.on.ca.

I trust this is satisfactory, but if you should have any questions, or require more information, please call the office.

Yours truly

Valerie Towsley
Resource Technician

CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

BY-LAW NO. -2018

A BY-LAW TO AMEND ZONING BY-LAW 216-2009

OF THE MUNICIPALITY OF CHATHAM-KENT

(Robert Glen Stewart)
Cityview # PL201700185

WHEREAS an application has been received for an amendment to the zoning by-law for a certain parcel of land in the Community of Harwich in order to rezone the lands to reallocate the area where a single detached dwelling is a permitted use.

AND WHEREAS the application conforms to the Chatham-Kent Official Plan;

AND WHEREAS Council, after due investigation and consideration, concurs in the proposed amendments;

NOW THEREFORE BE IT AND IT IS HEREBY ENACTED AS By-law No. -2018 of the Corporation of the Municipality of Chatham-Kent:

1. That Schedule "A" of the By-law 216-2009, as amended, of the Municipality of Chatham-Kent, be amended by changing the zone classification from Agricultural (A1) to Agricultural (A1-1), and from Agricultural (A1-1) to Agricultural (A1-1437) and Hazard Land (HL) on the lands respectively so depicted on Schedule "A" hereto annexed and also forming part of this by-law.
2. That Schedule "B" Zone Exceptions of the said By-law 216-2009, be amended by adding the list of Exception No., the following:

Exception No. 1437

3. That Schedule “B” Zone Exceptions of the said By-law 216-2009, be amended by adding to Exception No. 1437, the following Special Zone Symbol:

A1-1437

4. That Schedule “B” Zone Exceptions, of the said By-law 2016-2009, be amended by adding the following Exception Areas:

Exception No.	Special Zone Symbol	Special Zone Provisions
1437	A1-1437	Notwithstanding any other provisions of the by-law to the contrary, those lands zoned A1-1437 shall be considered one lot for the purposes of the By-law, and the following applies: i) Minimum Lot Area – 4.6 ha .

THIS By-law shall come into force and effect upon the final passing thereof, subject to the provisions of the Planning Act, R.S.O. 1990 Chapter. P.13, as amended.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this 12th day of February, 2018.

MAYOR – Randy R. Hope

CLERK – Judy Smith

This is Schedule "A" to By-law No. -2018 of the Corporation of the Municipality of Chatham-Kent passed on the 12th day of February, 2018.

