

Municipality Of Chatham-Kent
Community Development
Planning Services

To: Mayor and Members of Council

From: Ryan Jacques, MCIP, RPP
Manager, Planning Services

Date: February 28, 2020

Subject: Applications for Consent and Zoning By-law Amendment
PL202000016 – J. Brad Farms Ltd.
5266 Bradley Line & 5387 Pain Court Line
Community of Dover (North Kent)

Recommendations

It is recommended that:

1. Consent application File B-05/20, to sever and convey a 16.6 ha (41 ac.) vacant agricultural parcel, shown as Parts 1-3 on the applicant's sketch, in Part of Lots 3 & 4, Concessions 1 & 2, in the Community of Dover, be approved, subject to the following conditions:
 - a) that the Chatham-Kent Zoning By-law be amended to rezone the severed parcel to Agricultural-1503 (A1-1503) to permit a minimum lot area of 16.6 ha (41 ac.) and prohibit new dwellings;
 - b) that the applicant pay \$100 for the cost associated with the apportionment of assessment under the Drainage Act related to the subject lands;
 - c) that a hard copy and AutoCAD.dwg version of the final reference plan projected to the NAD 83/UTM Zone 17N coordinate system be submitted to the Municipality; and,
 - d) that the necessary deed(s), transfer or charges be submitted in triplicate; signed and fully executed (no photo copies), prior to certification.
2. Zoning By-law Amendment application File D-14 DO/04/20/J be approved and the implementing by-law be adopted.

Background

The subject property is located between Bradley Line to the north and Pain Court Line to the south, in the Community of Dover (Roll No. 3650 480 001 04000). The lands are approximately 58.3 ha (144 ac.) in area and are vacant of buildings or structures. The remainder of the property consists of vacant agricultural lands. The subject property is designated Agricultural Area in the Chatham-Kent Official Plan and zoned Agricultural (A1). A key map showing the location of the subject property is attached as Appendix A. A picture showing the subject property is attached as Appendix B.

The application is proposing to sever and convey a new agricultural parcel, approximately 16.6 ha (41 ac.) in area, shown as Parts 1-3 on the applicant's sketch attached as Appendix C. The retained parcel is approximately 41.7 ha (103 ac.) in area.

The Zoning By-law Amendment application is to implement the proposed severance in accordance with the lot area minimum requirements of the Zoning By-law and to prohibit new dwellings from being erected. As such, the severed parcel will be rezoned in a manner that is consistent with this policy direction and is discussed in more detail in the Comments section below.

Comments

Provincial Policy Statement (PPS)

Agricultural Lot Creation

The PPS contains policies in Section 2.3.4 regarding agricultural lot creation and adjustments. Specifically, Policy 2.3.4.1(a) states that lot creation in prime agricultural areas is discouraged, but that it may be permitted for agricultural uses, provided that the lots are of a size appropriate for the type of agricultural uses common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations.

Natural Hazards

The PPS also contains policies regarding Natural Hazards, which apply to the application (Policy 3.1). These policies require that development be directed to areas outside of hazardous lands adjacent to river and lake systems which are impacted by flooding hazards (Policy 3.1.1). Further, that development shall not be permitted within areas that would be rendered inaccessible to people and vehicles during times of flooding, unless the site has safe access appropriate for the type of development and hazard (Policy 3.1.1). Lastly, that the planning authority (Council) shall consider the potential impacts of climate change that may increase the risk associated with natural hazards.

The Lower Thames Valley Conservation Authority has advised that the subject lands are subject to flooding, and that the road network in this area is below the safe access elevation.

In consideration of this Provincial interest, it is recommended that the proposed severed parcels be rezoned to prohibit new dwellings from being erected. The intent of this zoning regulation is to implement the direction of the PPS to avoid development in naturally hazardous areas. Future development within the protected areas will require additional Planning Act applications that demonstrate that a means of access appropriate to support housing development considering the existing natural hazard is in place. A policy framework that addresses this issue is required through an amendment to the Chatham-Kent Official Plan.

The proposal conforms to the PPS.

Official Plan

Agricultural Lot Creation

The proposal is to sever and convey a new agricultural parcel, approximately 16.6 ha (41 ac.) in area. The proposal has been reviewed in the context of the Chatham-Kent Official Plan. It has been specifically reviewed under Section 3.10, Agricultural Area Policies, and Section 6.3.3, Planning Tools (Consent), and generally meets these policies.

In Chatham-Kent, a consent to sever may be granted to divide a lot for agricultural uses where the minimum area of either the retained or severed lots is under 20 ha (50 ac.) when (Policy 3.10.2.18.2):

- it can be demonstrated that the subject parcel can be a viable economic enterprise;

Comment: Both the severed and retained parcels will be holdings of a larger scale farming operation existing in the area. The proposed severance is not anticipated to negatively impact the viability of the subject property or any of the abutting properties. The farms can be accessed from Bradley Line and Pain Court Line, respectively.

- the size of the parcel to be severed and the parcel to be retained is appropriate for the type of agricultural purposes for each parcel;

Comment: The proposed severed and retained parcels will remain adequate in size to continue the existing farming use in conjunction with other farm holdings in the area. As mentioned above, the proposed severed parcel will be approximately 16.6 ha (41 ac.) in area, consisting of vacant arable farmland. The retained parcel will be approximately 41.7 ha (103 ac.) in area.

- the size of the parcel to be severed and the parcel to be retained is appropriate for the type of agriculture for the area in which the parcels are located;

Comment: Both the proposed severed and retained parcels will continue to function as has previously existed on the property. The proposal is not anticipated to impact the continued use or type of agriculture present in the area, which is the growing of crops.

- the size of the parcel to be severed and the parcel to be retained is common for the area in which the parcels are located;

Comment: The proposed severed parcel will remain consistent in terms of size with several surrounding parcels within the Concession. Parcels in this area vary in size from over 40 ha (100 ac.) to the range of 8-16 ha (20-40 ac.).

- the size of the parcel to be severed and the parcel to be retained is sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations.

Comment: Both the proposed severed and retained parcels will maintain a sufficient total size to accommodate for any potential future changes in the type or size of agricultural operations. It is most likely that the lands will continue to be used to grow crops for the long term.

There is no impact to existing servicing of any of the subject lands, and no impact to any of the abutting properties. It has been verified that there are no local improvement charges associated with the subject property.

Natural Hazards

The Official Plan also contains policies regarding expectations for protection from natural hazards, including flooding. These policies apply to lands designated Agricultural Area. The Flood Protection policies state that:

4.5.3.2.2 Development and site alteration will generally be directed outside of areas of flooding, erosion, and/or dynamic beach hazards along lakefronts, rivers and stream systems. Development and site alteration, however, may be permitted on certain floodplains and erosion constraint areas provided that:

- a) the flood hazard can be safely addressed;*
- b) no new hazards are created or existing ones aggravated;*
- c) no adverse environmental impacts will result;*
- d) vehicles and people can safely enter and exit the area during times of flooding; and*

- e) *the development does not include:*
- i. *an institutional use associated with hospitals, nursing homes, preschool, school nurseries, day care and schools;*
 - ii. *an essential emergency service such as that provided by fire, police and ambulance stations and electrical substations; and*
 - iii. *uses associated with the disposal, manufacture, treatment or storage of hazardous substances.*

The recommended rezoning of the subject property to prohibit new dwellings from being erected will ensure that the Municipality's interests in this regard are protected, while allowing for the existing agricultural uses on the property to continue.

Overall, the proposal meets the general intent of the Official Plan.

Zoning By-law

To implement the consent, the severed parcel is proposed to be rezoned to a site-specific Agricultural-1503 (A1-1503) zone to permit a minimum lot area of 16.6 ha (41 ac.) and to prohibit new dwellings from being erected.

Conclusion

The proposal has been reviewed in the context of the Provincial Policy Statement, the Chatham-Kent Official Plan and Zoning By-law and will be in full conformity, if approved. Therefore, the applications are being recommended for approval.

Areas of Strategic Focus and Critical Success Factors

The recommendations 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 recommendations 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)

Consultation

External

Lower Thames Valley Conservation Authority (LTVCA)

The LTVCA was circulated for comment as the subject lands fall within its jurisdiction. The subject property is in a LTVCA Regulated Area and permits for future construction are required. Further, LTVCA has advised that the subject lands are subject to flooding if the dike along the Thames River breached in this area, and that the road network in this area is below the safe access elevation. A copy of the letter received is attached as Appendix D.

Financial Implications

There are no financial implications resulting from these recommendations.

Prepared by:

Reviewed by:



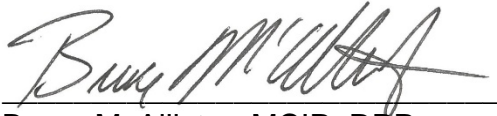
Noor Hermiz, CPT
Planner II, Planning Services



Ryan Jacques, MCIP, RPP
Manager, Planning Services

Reviewed By:

Reviewed by:



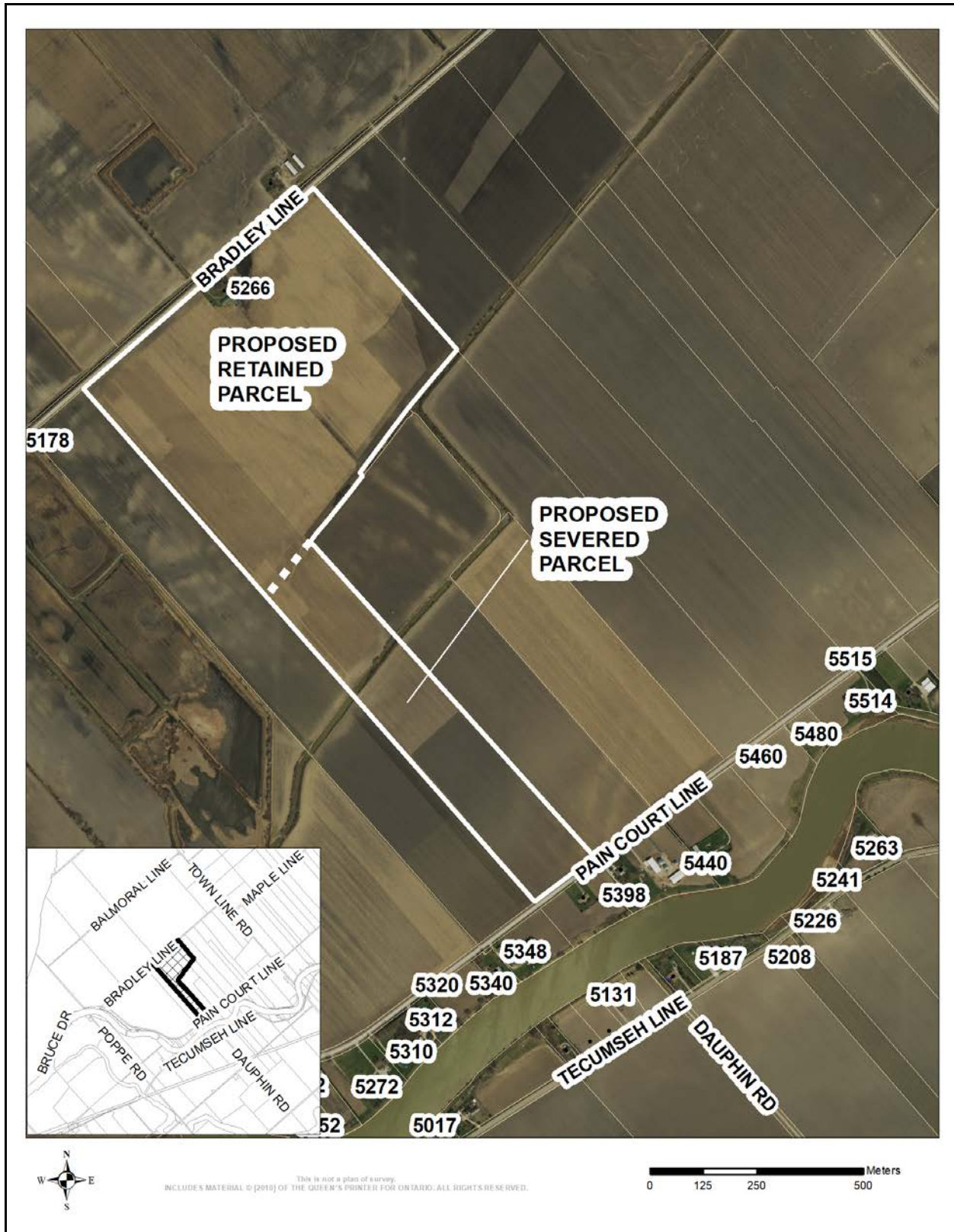
Bruce McAllister, MCIP, RPP
Director, Planning Services

John Norton
General Manager
Community Development

Attachments: Appendix A – Key Map
Appendix B – Site Photos
Appendix C – Applicant's Sketch
Appendix D – Letter from Lower Thames Valley Conservation Authority
By-law to amend By-law 216-2009

P:\RTC\Community Development\2020\Planning Services\Mar 23-20 J Brad Farms Ltd
Report.docx

Appendix A – Key Map




Appendix B – Site Photo



Looking north towards the proposed severed parcel from Pain Court Line.

Appendix D



February 18, 2020

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

Attn: Ryan Jacques

Re: **Combined Application DO/04/20/J**
Zoning By-law Amendment DO/04/20/J
Consent Application B-05/20
5266 Bradley Line & 5387 Pain Court Line (J. Brad Farms Ltd)
Part Lots 3 & 4, Concession 1 & 2
Community of Dover
Municipality of Chatham-Kent

Please be advised that the above mentioned application has been reviewed by this office and the Authority has no concerns with this proposal. 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 entire property in question is subject to the Authority's Development portion of the regulations. The issue of concern in this area is flooding.

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). 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.

It does not appear that there is access (ingress / egress via municipal roadways) during a regulatory flood event in this area of the community. As noted in the Provincial Policy Statement (PPS), 3.1.1 states 'Development shall generally be directed to areas outside of: ...b. hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards'. In addition PPS, Section 3.1.2 states 'Development and site alteration shall not be permitted within: ... c. areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, ... unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard'.

Any proposed development in this area may require fill to be brought in, in order to build the land up to satisfy flood proofing requirements. This could potentially result in a large quantity of fill material that would be required for this area. The fill would need to be engineered along with the basement foundations, with compaction rates to suitable standards so that no soil will be displaced in the event of flooding in this area.

100 Thames Street, Chatham, ON N7L2Y8 • www.ltca.ca
Phone: 519-354-7310 • Fax: 519-352-3435 • E-mail: admin@ltca.ca

The onus is on the proponent to show that the proposed development has safe access during a flood event. If no residential development is proposed for the new severed agricultural parcel, then there would be no CA concerns as it would be maintaining the status quo. However, if a residential structure is proposed on this lot then the CA would caution that this proposal is premature until safe access is obtained.

Please be advised that portions of the subject property is located in an area with a Highly Vulnerable Aquifer [HVA] and a Significant Groundwater Recharge Area [SGRA] 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

By-law Number _____

Of The Corporation
of the Municipality of Chatham-Kent

A By-law to Amend Zoning By-law 216-2009 of the Municipality of Chatham-Kent

(J Brad Farms Ltd.)

CityView # PL202000016

Whereas an application has been received for an amendment to the zoning by-law for a certain parcel of land in the Community of Dover in order to rezone the lands to permit a 16.6 ha (41 ac.) agricultural parcel and prohibit new dwellings;

And Whereas the proposed use would conform to the Official Plan;

And Whereas Council, after due investigation and consideration, concurs in the proposed amendment;

Now therefore be it and it is hereby enacted as By-law Number _____ 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 zoning classification from Agricultural (A1) to Agricultural-1503 (A1-1503) on the lands 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 to the list of Exception No., the following:

1503
3. That Schedule "B", Zone Exceptions, of the said By-law 216-2009, be amended by adding to the list of Special Zone Provisions, the following:

A1-1503
4. That Schedule "B", Zone Exceptions, of the said By-law 216-2009, be amended by adding the following:

Exception No.	Special Zone Symbol	Special Zone Provisions
1503	A1-1503	Notwithstanding any other provisions of the by-law to the contrary, the following shall also apply: i) No dwelling may be erected ii) Minimum Lot Area – 16.6 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 the 23rd day of March, 2020.

Mayor – Darrin Canniff

Clerk - Judy Smith

This is Schedule "A" to By-law Number _____ of the Corporation of the Municipality of Chatham-Kent passed on the 23rd day of March, 2020.

