

Municipality Of Chatham-Kent
Community Development
Planning Services

To: Mayor and Members of Council

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

Date: May 28, 2021

Subject: Applications for Consent and Zoning By-law Amendment
PL202100088 – Carol Knight
15648 McDonald Line, Community of Orford (East Kent)

Recommendations

It is recommended that:

1. Consent application File B-52/21, to sever and convey three (3) new agricultural parcels, as follows:

Parcel 1: approximately 20.52 ha (50.7 ac.) in area, shown as Part 1 on the applicant's sketch attached as Appendix C, and is comprised of farmland and significant woodland;

Parcel 2: approximately 20.52 ha (50.7 ac.) in area, shown as Part 2 on the applicant's sketch attached as Appendix C, and contains the existing dwelling and outbuildings, including a livestock facility, farmland and significant woodland; and,

Parcel 3: approximately 20.52 ha (50.7 ac.) in area, shown as Part 3 on the applicant's sketch attached as Appendix C, and comprised of farmland and significant woodland;

in Part of Lots 16 & 17, Concession 1, in the Community of Orford, subject to the following conditions:

- a) that the Chatham-Kent Zoning By-law be amended to:
 - i. rezone a portion of Severed Parcel 1 to a site specific Agricultural (A1-1562) Zone, to implement a 30 m (98.4 ft.) development setback from an Open Space (OS1) Zone, and reduce the agricultural Lot Area Minimum to 12.92 ha

(31.93 ac.);

- ii. rezone a portion of Severed Parcel 2 to a site specific Agricultural (A1-1563) Zone, to implement a 30 m (98.4 ft.) development setback from an Open Space (OS1) Zone, and reduce the agricultural Lot Area Minimum to 11.52 ha (28.47 ac.);
 - iii. rezone a portion of Severed Parcel 3 to a site specific Agricultural (A1-1564) Zone, to implement a 30 m (98.4 ft.) development setback from an Open Space (OS1) Zone, and reduce the agricultural Lot Area Minimum to 4.23 ha (10.45 ac.); and,
 - iv. rezone the natural heritage feature, being a significant woodland to a site specific Open Space (OS1-1353) Zone to permit conservation uses;
- 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. It will be necessary to allow up to three (3) working days after all conditions have been fulfilled and documentation filed for the issuance of the Certificate (stamping of deeds).
2. Zoning By-law Amendment application File D-14 OR/20/21/K, be approved, and the implementing by-law be adopted.

Background

The subject property is located on the south side of McDonald Line, between Duart Road and MacPherson Road, in the Community of Orford (Roll Nos. 3650 260 005 09000 & 09100). The lands are approximately 61.55 ha (152.1 ac.) and contain a single detached dwelling and four (4) outbuildings, including a livestock barn. The lands are designated Agricultural Area in the Chatham-Kent Official Plan and contain approximately 32.89 ha (81.25 ac.) of significant woodland, as identified on Schedule "C" - Natural Heritage of the Official Plan. The subject lands are zoned Agricultural (A1). A key map showing the location of the subject property is attached as Appendix A. Pictures showing the subject property and surrounding area are attached as Appendix B.

The application proposes to create three (3) new agricultural parcels, as follows:

Parcel 1: approximately 20.52 ha (50.7 ac.) in area, shown as Part 1 on the applicant's sketch attached as Appendix C, and is comprised of farmland and significant woodland;

Parcel 2: approximately 20.52 ha (50.7 ac.) in area, shown as Part 2 on the applicant's sketch attached as Appendix C, and contains the existing dwelling, outbuildings, farmland and significant woodland; and,

Parcel 3: approximately 20.52 ha (50.7 ac.) in area, shown as Part 3 on the applicant's sketch attached as Appendix C, and comprised of farmland and significant woodland.

A zoning by-law amendment is required to implement the proposed consent. The proposal is discussed in more detail under the Comments section below.

Comments

Provincial Policy Statement (PPS)

Agricultural Lot Creation

The PPS permits lot creation in prime agricultural areas where the lot is of a size appropriate for the type of agriculture common in the area (Policy 2.3.4.1(a)).

Natural Heritage

Section 2.1.1 (Natural Heritage) states, *Natural features and areas shall be protected for the long term.* Further, Section 2.1.9 states, *Nothing in policy 2.1 is intended to limit the ability of agricultural uses to continue.*

It is recommended that the natural heritage portion of the property, being a significant woodland, be rezoned to a site specific Open Space zone that will limit permitted uses to those that implement the direction of the PPS. It is also recommended that development on lands adjacent to the natural heritage feature be required to have a minimum setback distance that promotes protection of the woodland and its ecological function

Official Plan

Agricultural Lot Creation

The application has been reviewed under the policies 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 Zoning By-law), and generally meets these policies.

The Official Plan contains policies specific to the severing of lands in the Agricultural Area. Specific to this application, these policies permit a severance where the minimum area of both the severed and retained parcels is 20 ha (49.4 ac.).

The Official Plan also contains policies that require any severance of agricultural lands to be in compliance with the Provincial Minimum Distance Separation (MDS) Formulae and Implementation Guidelines (Policy 3.10.2.18.2(a)). The proposal is in full compliance with this requirement and is discussed in more detail below.

Natural Heritage

Similar to the PPS, the Chatham-Kent Official Plan contains policies designed to protect and enhance natural heritage features and areas. These policies also apply to lands designated Agricultural. The Agricultural Area policies state that:

3.10.2.12 For lands located within or adjacent to the significant habitat of endangered or threatened species identified in consultation with the Ministry of Natural Resources, Provincially Significant Wetlands identified on Schedules "A" and "E" Series – Land Use, or significant natural heritage features identified on Schedule "C" Series – Natural Heritage and Hazards Features, the policies contained in Section 4 of this Plan will also apply.

Further, the proposal to rezone the lands for the long term protection of the natural heritage feature, being a significant woodland, is supported by several policies in Section 4, Environment, which state:

It shall be the objective of Chatham-Kent to:

4.2.1 Increase and improve the health of the natural heritage system of Chatham-Kent through protection and enhancement of natural heritage features, ecological functions and natural resources, including air and water, education, conservation and environmental stewardship.

4.4.1.1 Protect and preserve provincially and federally significant natural features in Chatham-Kent.

4.4.2.1 Ensure that development and site alteration results in no negative impacts on significant natural features in Chatham-Kent.

4.4.3.1 Protect potential natural corridors through the development review process in Chatham-Kent.

The recommended rezoning of the natural heritage feature will ensure that the Municipality's interests in this regard are protected, while allowing for the existing agricultural uses on the property to continue.

Zoning By-law

Agricultural Lot Creation

The proposed severance will create three (3) parcels, each approximately 20.52 ha (50.7 ac.) in area. Each parcel consists of farmable land, and a portion of the existing significant woodland. As a result, Section 4.22 of the Chatham-Kent Zoning By-law applies whereby each proposed parcel will contain more than one zone, the area of the agricultural portion will be considered as the lot size. The zoning by-law amendment is required to:

- rezone the farmed portion of Severed Parcel 1 to a site specific Agricultural (A1-1562) zone to recognize the reduction in agricultural lot area and require a 30 m setback from the significant woodland for new buildings or structures;
- rezone the farmed portion of Severed Parcel 2 to a site specific Agricultural (A1-1563) zone to recognize the reduction in agricultural lot area and require a 30 m setback from the significant woodland for new buildings or structures; and,
- rezone the farmable portion of Severed Parcel 3 to a site specific Agricultural (A1-1564) zone to recognize the reduction in agricultural lot area and require an adequate setback from the significant woodland for new buildings or structures.

Natural Heritage

As indicated above, the rezoning of the natural heritage feature, being a significant woodland, to a site specific Open Space (OS1-1353) zone will support long-term protection of the natural heritage features without impacting the existing agricultural productive capacity of the retained parcel.

Minimum Distance Separation (MDS) Formulae and Implementation Guidelines

The MDS Formulae are land use planning tools that determine setback distances between livestock facilities and surrounding land uses. The objective is to minimize land use conflicts and nuisance complaints related to odour. The subject lands contain a livestock barn that is approximately 280 sq. m in area using for housing cattle. According to Implementation Guideline #8 of the MDS Document, where lot creation is proposed, including new lots for agricultural uses, an MDS I setback is required for both the severed and retained lots. In this scenario, MDS I applies to Severed Parcel 1 and Severed Parcel 3 and is specifically to determine a required setback distance of each parcel from the existing livestock facilities on the adjacent lands. Severed Parcel 2 contains an existing dwelling.

The measurement of the MDS I setback where new lot creation is proposed is determined using Implementation Guideline # 41 of the MDS Document. As it applies to the current proposal, this measurement is to be undertaken as follows:

“For proposed lots without an existing dwelling that are > 1 ha, MDS I setbacks are measured as the shortest distance between a 0.5 ha or larger building envelope (for a potential dwelling) and either the surrounding livestock occupied portions of the livestock barns, manure storages or anaerobic digesters”.

The MDS I setback is based on maximum potential capacity of the existing livestock facilities on the adjacent parcel. The maximum capacity of the facility is the equivalent of 60 cows, and therefore the required setback is calculated as being 209 m (686 ft.). The map attached as Appendix D demonstrates this distance in conjunction with Implementation Guideline # 41 that is described above. As demonstrated on the map, both Severed Parcel 1 and Severed Parcel 3 maintain a 0.5 ha (1.2 ac.) building envelope beyond the 209 m (686 ft.) MDS I buffer distance. Therefore, it is confirmed that both the severed and retained lands meet the required MDS I setback.

All other applicable zoning regulations are being met by this proposal.

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

There was no consultation required as part of these applications.

Financial Implications

There are no financial implications resulting from the recommendations.

Prepared by:

Reviewed by:

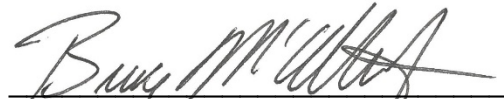


Greg Houston, CPT
Planner II, Planning Services



Ryan Jacques, MCIP, RPP
Director, Planning Services

Reviewed by:

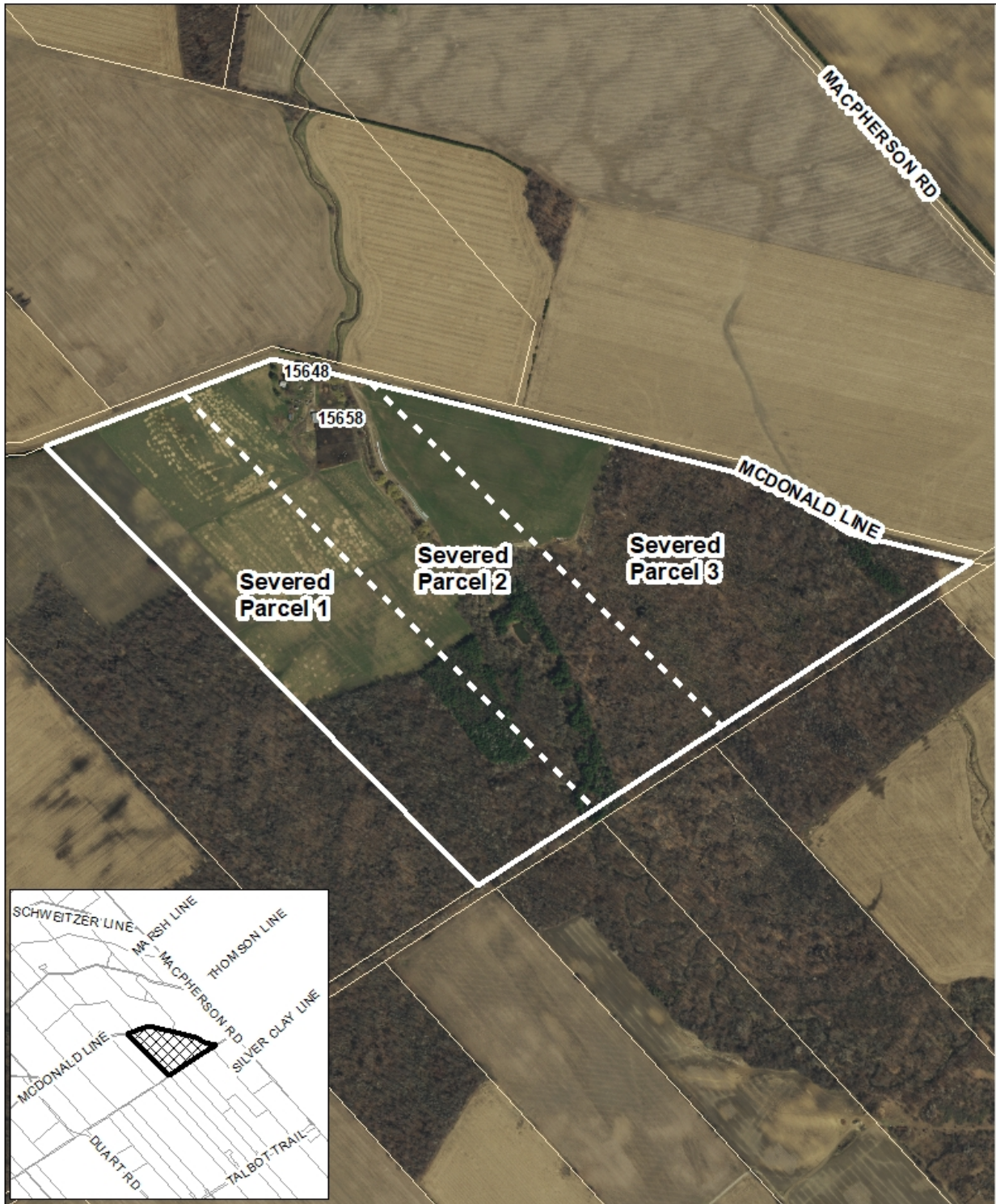


Bruce McAllister, MCIP, RPP
General Manager, Community Development

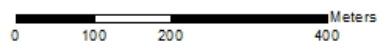
Attachments: Appendix A – Key Map
Appendix B – Site Photos
Appendix C – Applicant's Sketch
Appendix D – MDS I Setback
By-law to amend By-law 216-2009

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Report.docx

Appendix A – Key Map



This is not a plan of survey.
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Appendix B – Site Photos

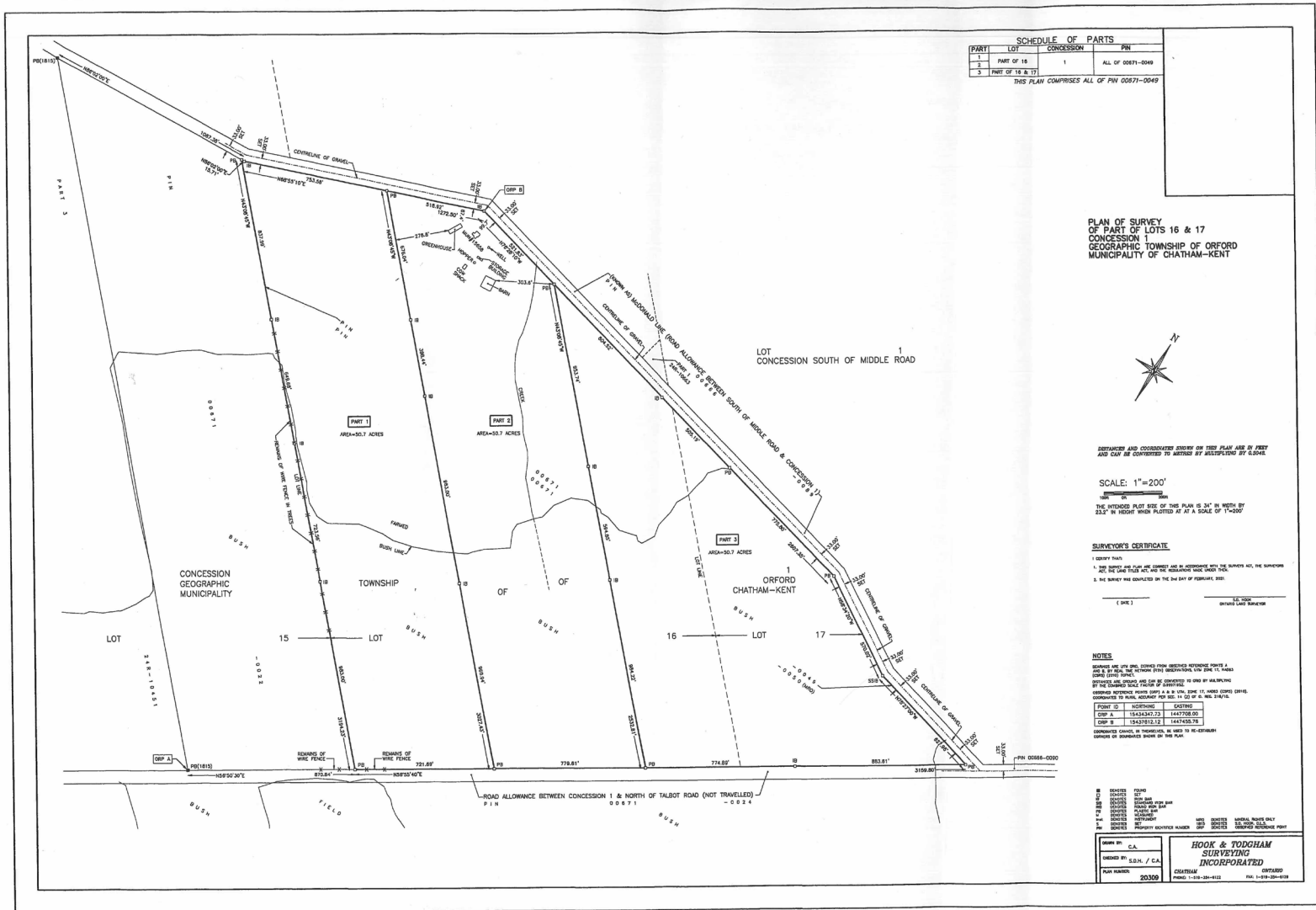


Looking south at the dwelling and livestock barn on Severed Parcel 2.

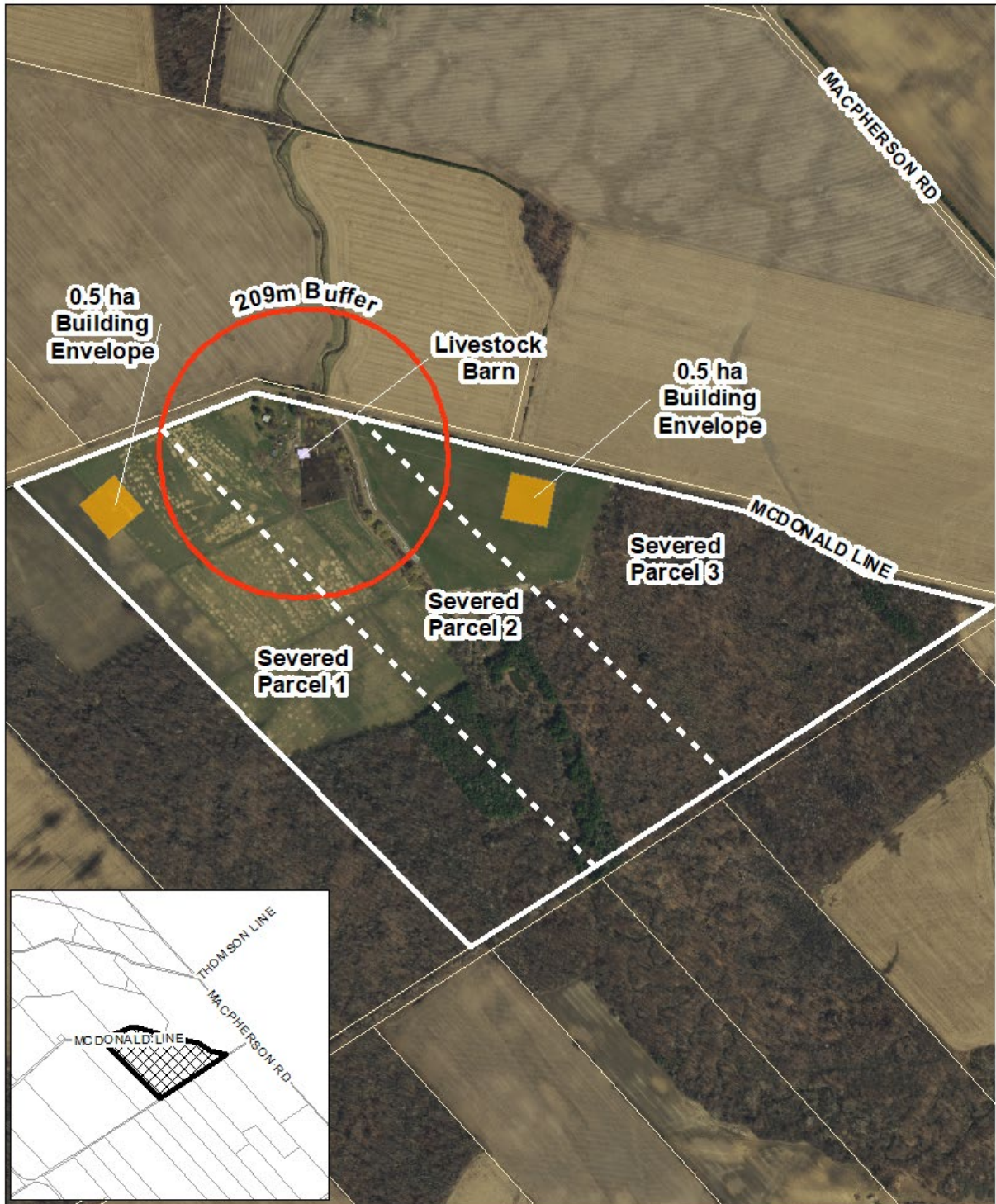


Looking west at Severed Parcel 1.

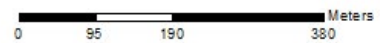
Appendix C – Applicant's Sketch



Appendix D – MDS I Setback



This is not a plan of survey.
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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

(Carol Knight)

CityView # PL202100088

Whereas an application has been received for an amendment to the zoning by-law for a certain parcel of land in the Community of Orford in order to implement the consent by rezoning the natural heritage feature, implementing a development setback and recognizing the reduced lot area;

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 (A1-1562), Agricultural (A1-1563), Agricultural A1-1564 & Open Space (OS1-1353) 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:
 - Exception No. 1562
 - Exception No. 1563
 - Exception No. 1564
3. That Schedule "B" Zone Exceptions of the said By-law 216-2009, be amended by adding to the list of Special Zone Symbols, the following:
 - A1-1562
 - A1-1563
 - A1-1564
4. That Schedule "B", Zone Exceptions, of the said By-law 216-2009, be amended by adding the following Special Zone Provisions:

Exception No.	Special Zone Symbol	Special Zone Provisions
1562	A1-1562	<p>Notwithstanding any other provision of the by-law to the contrary, the following shall also apply:</p> <ul style="list-style-type: none"> <li data-bbox="711 379 1401 594">i) No buildings or structures shall be erected within 30 m of an Open Space (OS1) zone, unless it has been demonstrated through an ESS/EIS that there will be no negative impacts on the adjacent natural heritage feature or its ecological functions. <li data-bbox="711 634 1219 674">ii) Lot area minimum – 12.92 ha
1563	A1-1563	<p>Notwithstanding any other provision of the by-law to the contrary, the following shall also apply:</p> <ul style="list-style-type: none"> <li data-bbox="711 817 1401 1032">i) No buildings or structures shall be erected within 30 m of an Open Space (OS1) zone, unless it has been demonstrated through an ESS/EIS that there will be no negative impacts on the adjacent natural heritage feature or its ecological functions. <li data-bbox="711 1072 1219 1112">ii) Lot area minimum – 11.52 ha
1564	A1-1564	<p>Notwithstanding any other provision of the by-law to the contrary, the following shall also apply:</p> <ul style="list-style-type: none"> <li data-bbox="711 1255 1401 1470">i) No buildings or structures shall be erected within 30 m of an Open Space (OS1) zone, unless it has been demonstrated through an ESS/EIS that there will be no negative impacts on the adjacent natural heritage feature or its ecological functions. <li data-bbox="711 1510 1203 1550">ii) Lot area minimum – 4.23 ha

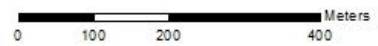
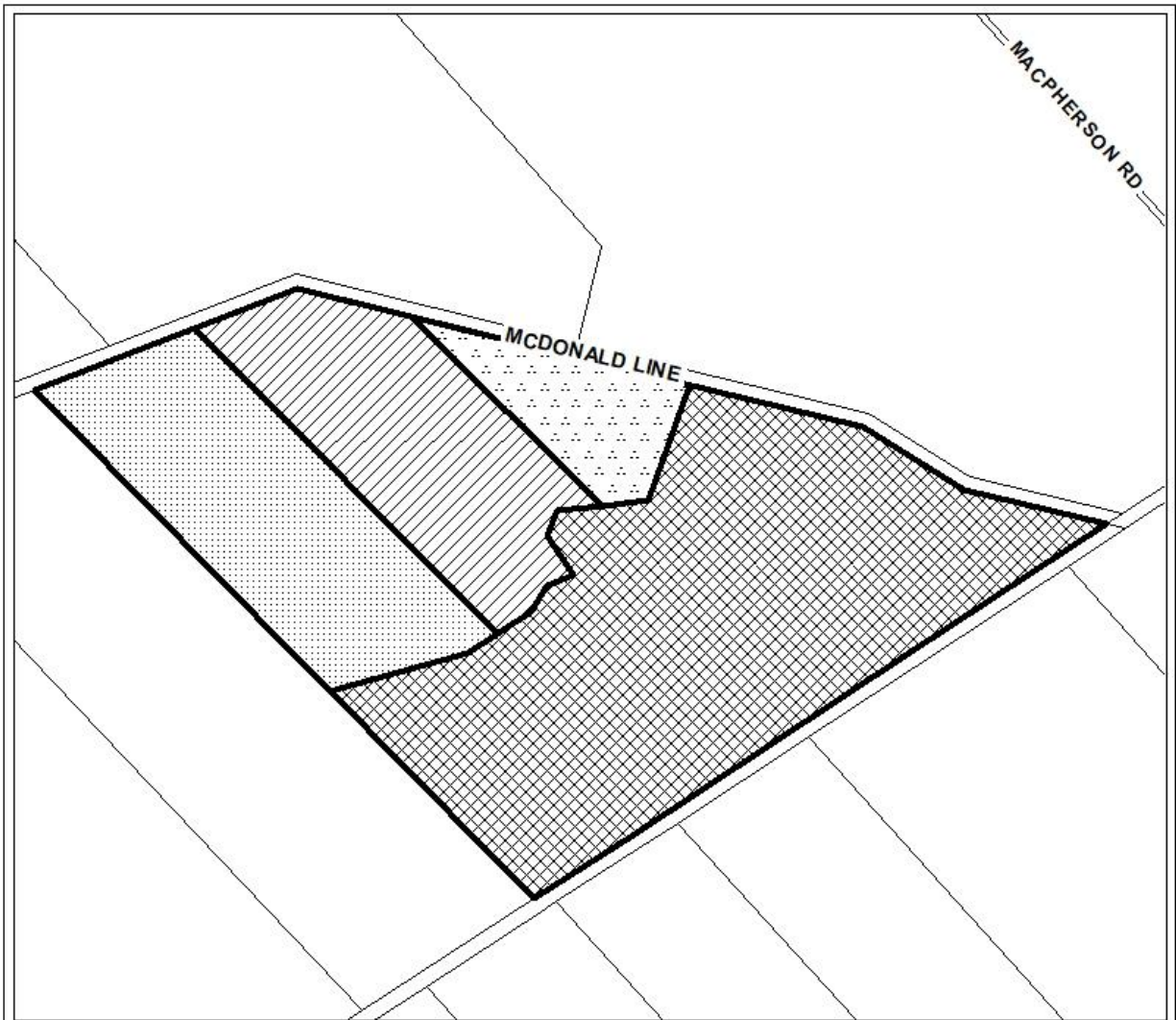
This By-law shall come into force and effect upon the final passing thereof, subject to the provisions of the Planning Act, R.S.O. 1990 Chapter. P.13, as amended.





Read a First, Second and Third Time the 21st day of June, 2021.

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 21st day of June, 2021.



-  Zone Change from Agricultural (A1) to Agricultural-1564 (A1-1564)
-  Zone Change from Agricultural (A1) to Agricultural-1563 (A1-1563)
-  Zone Change from Agricultural (A1) to Agricultural-1562 (A1-1562)
-  Zone Change from Agricultural (A1) to Open Space-1353 (OS-1353)