

Municipality Of Chatham-Kent

Community Development

Planning Services

To: Mayor and Members of Council

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

Date: April 26, 2021

Subject: Applications for Consent and Zoning By-law Amendment
PL202100059– Neil Rose and 2512269 Ontario Limited
11972 New Scotland Line and 11977 Rose Beach Line, Community of
Howard (East Kent)

Recommendations

It is recommended that:

1. Consent application File B-36/21 to sever and convey a new agricultural parcel, approximately 27.9 ha (68.9 ac.) in area, shown as Parts 1 & 2 on the applicant's sketch, in Part of Lots 97 & 98, Broken Front Concession, in the Community of Howard, and to permit a partial discharge of the existing mortgage, be approved, subject to the following conditions:
 - a) that the applicant pay \$100 for the cost associated with the apportionment of assessment under the Drainage Act related to the subject lands;
 - b) 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,
 - c) 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. Consent application File B-37/21 to sever and convey a new agricultural parcel, approximately 20.3 ha (50.26 ac.) in area, shown as Part 4 on the applicant's sketch, in Part of Lots 99, Broken Front Concession, in the Community of Howard, and to permit a partial discharge of the existing mortgage, be approved, subject to the following conditions:

- a) that the entirety of the lands (PINs 00677-0042 & 0270) be consolidated under common ownership and a single Parcel Identification Number, and the applicant provide documentation confirming registration;
 - b) the Chatham-Kent Zoning By-law be amended to:
 - i) rezone a portion of the severed parcel to a site specific Open Space (OS1-1353) zone to permit conservation uses; and,
 - ii) rezone a portion of the severed parcel to a site-specific Agricultural-1555 (A1-1555) Zone to restrict any future residential development on these lands, prohibit development within 30m of the Open Space (OS1) Zone, recognize the reduced lot area and recognize the proposed setbacks of the existing agricultural buildings;
 - 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).
3. Consent application File B-38/21, to sever a surplus dwelling (11972 New Scotland Line) and two (2) accessory buildings on a new 0.4 ha (1.0 ac.) lot, shown as Part 3 on the applicant's sketch, Part of Lot 99, Broken Front Concession, in the Community of Howard, and to permit a partial discharge of the existing mortgage, be approved, subject to the following conditions:
- a) that the applicant demonstrate the septic system on the severed parcel is functioning in accordance with Municipal Protocol;
 - b) 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,
 - c) 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).
4. Consent application File B-39/21 to sever and convey a new agricultural parcel, approximately 18.0 ha (44.52 ac.) in area, shown as Parts 6 & 7 on the applicant's

sketch, in Part of Lots 99 & 100, Broken Front Concession, in the Community of Howard, and to permit a partial discharge of the existing mortgage, be approved, subject to the following conditions:

- a) that the entirety of the lands (PINs 00677-0042 & 0270) be consolidated under common ownership and a single Parcel Identification Number, and the applicant provide documentation confirming registration;
 - b) the Chatham-Kent Zoning By-law be amended to:
 - i) rezone a portion of the severed parcel to a site specific Open Space-1353 (OS1-1353) zone to permit conservation uses; and,
 - ii) rezone a portion of the severed parcel to a site-specific Agricultural-1556 (A1-1556) Zone to prohibit development within 30m of the Open Space (OS1) Zone and recognize the reduced lot area and lot frontage;
 - 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).
5. Consent application File B-40/21 to sever and convey a new agricultural parcel, approximately 20.2 ha (50.0 ac.) in area, shown as Parts 5 & 9 on the applicant's sketch, in Part of Lot 99, Broken Front Concession, in the Community of Howard, and to permit a partial discharge of the existing mortgage, be approved, subject to the following conditions:
- a) that the entirety of the lands (PINs 00677-0042 & 0270) be consolidated under common ownership and a single Parcel Identification Number, and the applicant provide documentation confirming registration;
 - 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 the Chatham-Kent Zoning By-law be amended to:
 - i) rezone a portion of the retained and severed parcels to a site specific Open Space-1353 (OS1-1353) zone to permit conservation uses; and,
 - ii) rezone a portion of the retained parcel to the Hazard Land (HL) Zone to protect the Provincially Significant Wetland; and,

- iii) rezone a portion of the retained parcel to a site-specific Agricultural-1559 (A1-1559) zone to implement a 30 m development setback from an Open Space (OS1) zone and recognize the reduced lot area;
 - d) 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,
 - e) 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).
6. Zoning By-law Amendment application File D-14 HO/12/21/R, be approved, and the implementing by-law be adopted.

Background

The subject property is bounded by Rose Beach Line and New Scotland Line, between Kent Bridge Road and McKinlay Road, in the Community of Howard (Roll No. 3650 210 004 31700 & 38100). The subject property is comprised of two abutting agricultural parcels held in separate ownership, the lands are described as follows:

- Roll No. 31700: approximately 68.5 ha (169.2 ac.) in area, containing a single detached dwelling, two (2) accessory buildings, five (5) outbuildings, one (1) silo, and five (5) grain bins.
- Roll No. 38100: approximately 40.6 ha (100.3 ac.) in area, containing a single detached dwelling and four (4) outbuildings.

The lands are 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. Pictures showing the subject property and surrounding area are attached as Appendix B.

The application proposes to reconfigure the two existing properties into six properties. The proposed severances are to be completed in the following manner:

1. Parcel 1: to sever a new agricultural parcel, approximately 27.9 ha (68.9 ac.) in area, shown as Parts 1 & 2 on the applicant's sketch attached as Appendix C. The severed parcel is currently vacant and will continue to be farmed.
2. Parcel 2: to sever a new agricultural parcel, approximately 20.3 ha (50.26 ac.) in area, shown as Part 4 on the applicant's sketch. The agricultural parcel will contain the five (5) outbuildings, five (5) grain bins, a silo and a

portion of a significant woodland. The cropped area will continue to be farmed.

3. Parcel 3: to sever a surplus dwelling (11972 New Scotland Line) on a new 0.4 ha (1.0 ac.) lot, shown as Part 3 on the applicant's sketch. The severed parcel will contain the existing dwelling and two (2) accessory buildings.
4. Parcel 4: to sever a new agricultural parcel, approximately 18.0 ha (44.52 ac.) in area, shown as Parts 6 & 7 on the applicant's sketch. The severed parcel is currently vacant and contains a portion of a significant woodland. The cropped area will continue to be farmed.
5. Parcel 5: to sever a new agricultural parcel, approximately 20.2 ha (50.0 ac.) in area, shown as Parts 5 & 9 on the applicant's sketch. The severed parcel is currently vacant and will continue to be farmed.

The retained parcel is approximately 22.0 ha (54.3 ac.) in area, shown as Part 8 on the applicant's sketch, containing an existing dwelling and four (4) outbuildings, a portion of a significant woodland and a portion of a Provincially Significant Wetland. It will continue to be farmed by the owner.

To implement the proposed severances, a Zoning By-law Amendment application is required to recognize the Significant Woodlot and Provincially Significant Wetland on the subject property, implement a 30 m development setback from these natural features, and recognize resulting zoning regulation deficiencies. The proposal is discussed in more detail in 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)) and for a residence surplus to a farming operation as a result of farm consolidation (Policy 2.3.4.1(c)). The proposed severances are consistent with these policies and there is no issue of provincial interest resulting from this proposal.

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 features of the property be rezoned to the site specific Open Space zone and Hazard Land 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 ensures protection of the natural heritage feature 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.). It further considers smaller lot sizes where the severed and retained parcels are appropriate for the type of agricultural purpose of each parcel (Policy 2.10.2.18.2(a)). The severance of a habitable farm dwelling that is surplus to the needs of a farm operation as a result of farm consolidation is also permitted (Policy 3.10.2.18.2(b)).

In considering the outcome of the proposal, while undersized for a farm lot, severed Parcel 4 will utilize the existing edge of the natural heritage feature on the property as a line of severance. Severing this portion of the farm as a new agricultural parcel will result in an agricultural parcel appropriate for the subject property as it will continue to be a viable farm parcel and promote the long-term protection of the woodlot.

The proposed surplus dwelling severance is consistent with Section 3.10.2.18.2(b) of the Official Plan. The proposed severed lot is of sufficient area to accommodate the existing dwelling, outbuildings, private water well and septic system.

There is no shared drainage and the severed parcels and retained parcel will maintain separate accesses from an improved public road. It has also been verified that there are no local improvement charges associated with the subject property. The proposal will have no impact on the agricultural operation on the subject property.

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 re-zone the lands for the long term protection of the natural heritage feature 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.*

It is recommend that the Significant Woodland on the parcels be rezoned to an Open Space-1353 (OS1-1353) Zone that limits permitted uses to conservation. The Provincially Significant Wetland on the retained parcel will be rezoned to the Hazard Land (HL) zone, which will restrict development in this area of the property. The remainder of the lands on the severed and retained parcels are being rezoned to implement a 30 m (98.4 ft.) buffer, further enhancing the protection of the natural heritage features

The recommended rezoning of the natural heritage features 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

The proposed severance will create four new agricultural parcels and a new surplus dwelling lot. To implement the proposed severances, it is recommended that the lands be rezoned as follows:

- Parcel 2:
 - 1. Rezone the existing woodlot to a site-specific Open Space (OS1-1353) Zone to limit uses to conservation.
 - 2. Rezone the balance of the lands to a site-specific Agricultural (A1-1555) Zone to restrict any future residential development on these lands, prohibit development within 30m of the Open Space (OS1-1353) Zone,

and recognize the reduced lot area and recognize the proposed setbacks of the existing agricultural buildings.

- Parcel 4:
 1. Rezone the existing woodlot to a site-specific Open Space (OS1-1353) Zone to limit uses to conservation.
 2. Rezone the balance of the lands to a site-specific Agricultural (A1-1556) Zone to prohibit development within 30m of the Open Space (OS1) Zone and recognize the reduced lot area and lot frontage.
- Parcel 5:
 1. Rezone the existing woodlot to a site-specific Open Space (OS1-1353) Zone to limit uses to conservation.
- Parcel 6:
 1. Rezone the existing woodlot to a site-specific Open Space (OS1-1353) Zone to limit uses to conservation.
 2. Rezone the existing wetland to the Hazard Land (HL) zone.
 3. Rezone the balance of the lands to a site-specific Agricultural (A1) Zone to recognize the reduced lot area and prohibit development within 30 m of the Open Space (OS1) Zone.

Section 4.22 of the Chatham-Kent Zoning By-law applies whereby the severed parcel contains 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 portions of Parcels 2, 4 and 6 to site-specific Agricultural zone to recognize the reduction in lot area.

Parcel 4, an undersized agricultural parcel will follow the existing woodlot as a natural line of severance resulting in an undersized agricultural parcel that is deficient in lot frontage. The severed parcel will consist of the existing woodlot with the remainder being 14.6 ha (36.1 ac.) of farmable land. The zoning by-law amendment will address the deficient lot area, lot frontage, and require an adequate setback from natural areas for new buildings or structures.

Parcel 6, the retained parcel, will consist of the Provincially Significant Wetland and woodlot, with the remainder being 15.4 ha (38 ac.) of farmed land. The zoning by-law amendment will address this deficiency as well as implement a development setback from natural heritage features on the property.

To implement the direction of the Provincial Policy Statement and Official Plan, the zoning by-law amendment will rezone Parcel 2 to a site-specific Agricultural (A1-1555) zone to prohibit any future dwelling on these lands as a result of a surplus dwelling severance. This site-specific zone will also require an adequate setback from natural areas for new buildings or structures, recognize the setbacks of the existing agricultural buildings, and recognize the reduced lot area.

Natural Heritage

As indicated above, the rezoning of the natural heritage features to the site specific Open Space (OS1-1353) zone and Hazard Land (HL) zone will support long-term protection of the natural heritage features without impacting the existing agricultural productive capacity of the severed and retained parcels.

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

Conclusion

The proposed consent and zoning by-law amendment have 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.

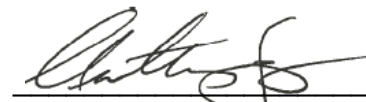
Financial Implications

There are no financial implications resulting from the recommendations.

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Director, Planning Services

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

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Appendix A – Key Map



Appendix B – Site Photos



Looking south from New Scotland Line at the existing entrance to Parcel 2.



Looking south from New Scotland Line at the surplus dwelling lot
(11972 New Scotland Line).

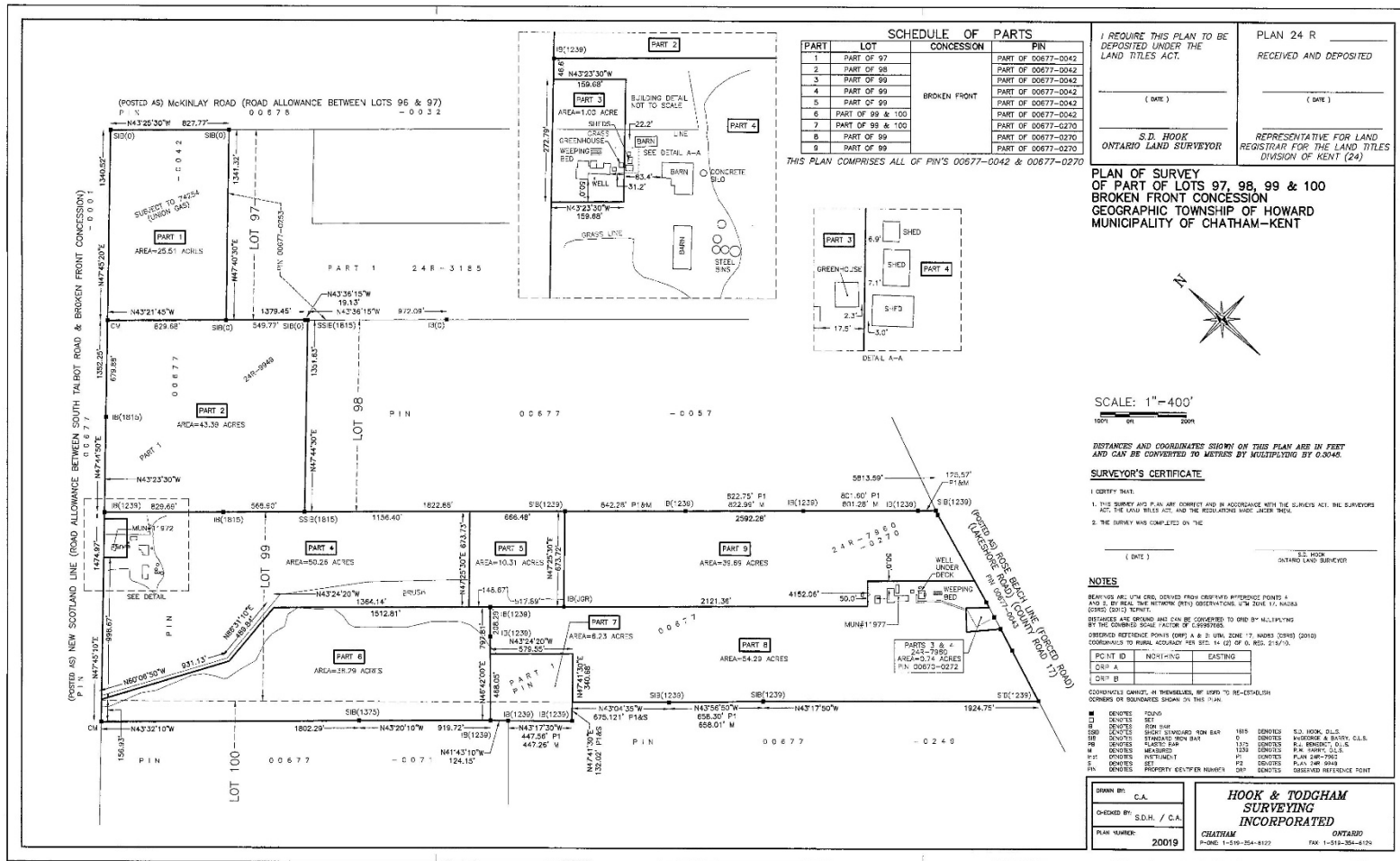


Looking north from Rose Beach Line at the retained parcel (11977 Rose Beach Line),
with a portion of the woodlot and wetland shown to the left.



Looking southeast from New Scotland Line at Parcel 4.

Appendix C – Applicant's Sketch



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
(Neil Rose and 2512269 Ontario Limited)
CityView # PL202100059

Whereas an application has been received for an amendment to the zoning by-law for certain parcels of land in the Community of Howard in order to rezone the lands to implement the proposed severances and protect natural areas for the long term;

And Whereas the proposed use would conform to the 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 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-1555 (A1-1555), Agricultural-1556 (A1-1556), Agricultural-1559 (A1-1559), Hazard Land (HL) and Open Space-1353 (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:

1555
1556
1559

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:

A1-1555
A1-1556
A1-1559

4. That Schedule “B”, Zone Exceptions, of the said By-law 216-2009, be amended by adding the following Exception Areas:

Exception No.	Special Zone Symbol	Special Zone Provisions
1555	A1-1555	Notwithstanding any other provision of the by-law to the contrary, the following shall also apply:

Exception No.	Special Zone Symbol	Special Zone Provisions
		<ul style="list-style-type: none"> 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. ii) No dwelling may be erected iii) Lot Area Minimum – 18.7 ha iv) Interior Side Yard Width Minimum of an existing agricultural building - 0.9 m (3 ft.)
1556	A1-1556	<p>Notwithstanding any other provision of the by-law to the contrary, the following shall also apply:</p> <ul style="list-style-type: none"> 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. ii) Lot Area Minimum – 14.6 ha iii) Lot Frontage Minimum – 47.8 m
1559	A1-1559	<p>Notwithstanding any other provision of the by-law to the contrary, the following shall also apply:</p> <ul style="list-style-type: none"> 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. ii) Lot Area Minimum – 15.4 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 17th day of May, 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 17th day of May, 2021.

