

## **Municipality Of Chatham-Kent**

### **Community Development**

#### **Planning Services**

**To:** Mayor and Members of Council

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

**Date:** April 16, 2021

**Subject:** Applications for Consent and Zoning By-law Amendment  
PL202100080 – RJ Properties Inc.  
Fargo Road, Community of Harwich (South Kent)

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#### **Recommendations**

It is recommended that:

1. Consent application File B-50/21, to sever and convey a new 0.8 ha (2.00 ac.) agricultural lot, shown as Part 1 on the applicant's sketch, in Part of Lot 16, Concession 1 WCR, in the Community of Harwich, as a lot addition to the abutting agricultural parcel to the east, be approved, subject to the following conditions:
  - a) that the Chatham-Kent Zoning By-law be amended to:
    - i. rezone a portion of the receiving lands to Open Space-1358 (OS1-1358);
    - ii. rezone the severed lands to the site-specific Agricultural-1469 (A1-1469); and,
    - iii. amend the site-specific Agricultural-1470 (A1-1470) zone to recognize the reduction in lot area to 16.5 ha (40.7 ac.).
  - b) that the lot addition to be severed, shown as Part 1 on the applicant's sketch be conveyed to the owner of the abutting parcel (PIN 00907-0086 & 0087 /described as Part 1, 2, & 3, 24R-10541) and Section 50(3 or 5) of the Planning Act applies to any subsequent conveyance of or transaction involving the parcel of land that is the subject of this consent;
  - c) that a one-foot square along Communication road from the receiving lot (PIN 00907-0086 & 0087/described as Part 1, 2, & 3, 24R-10541) be conveyed to the Municipality free of charge and clear of all encumbrances, and that the transfer confirming ownership of the one-foot square being the Corporation of the

Municipality of Chatham-Kent be submitted to the Municipality;

- d) that the applicant pay \$75 for the registration of the dedication by-law for the one foot square conveyance pursuant to condition (c);
  - e) 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
  - f) 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 HA/18/21/R be approved and the implementing by-law be adopted.

### **Background**

The subject lands are situated along the existing railway corridor abutting Fargo Road, east of Drury Line, in the Community of Harwich (Roll No. 3650 140 008 23200). This is a land locked parcel with no legal frontage on an improved public road due to the presence of the railway. The lands are approximately 17.3 ha (42.7 ac.) in total area and consist of vacant farmland. The lands are accessed from an existing crossing over the railway along Fargo Road. The subject parcel is designated Agricultural Area in the Chatham-Kent Official Plan and zoned Agricultural-1470 (A1-1470). A key map showing the location of the subject property and photographs of the subject lands are attached as Appendix A and B, respectively.

The application is proposing to sever and convey a portion of land, approximately 0.8 ha (2.0 ac.) in area, shown as Part 1 on the applicant's sketch, attached as Appendix C, as a lot addition to the abutting parcel to the east. The severed lands are vacant of any structures and is intended to be used for a building lot while providing an additional buffer from the adjacent woodland. The retained parcel, approximately 16.5 ha (40.7 ac.) in area, will continue to be farmed.

At its meeting of February 11, 2019, Council approved Consent and Zoning by-law Amendment applications that created the existing lot configuration for both the subject lands and receiving lot. The approval rezoned the significant woodland on the receiving lot and implemented a 30 m development setback for the adjacent building area. It has since been determined that this building area, being the portion of land abutting the woodland to the west, is better suited for conservation uses as this land is low lying and poorly drained. It has since been recommended through supporting documentation submitted as part of this application that a further building setback from the natural feature would be beneficial to preserve and protect the area for the long term. These opinions were expressed in letters submitted with the applications and are attached as Appendix D and E for review.

The purpose of the Zoning By-law Amendment application is to implement the severance according to the requirements of the Chatham-Kent Official Plan and the Provincial Policy Statement. The amendment will also address the zoning deficiencies of the retained parcel resulting from the severances. The zoning amendment is discussed in more detail in the Comments section below.

## **Comments**

### **Provincial Policy Statement (PPS)**

The PPS provides clear direction to identify and protect natural heritage features and areas for the long-term (Section 2.1.1). More specifically it states:

*2.1.2 The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features.*

Further, it requires that development on lands adjacent to natural heritage features and areas is to have no negative impact on the natural features or on their ecological functions (Section 2.1.8).

It is recommended that the portion of the receiving lot west of the woodlands be re-zoned to a site-specific Open Space zone to support the transition of these lands to conservation uses. It is also recommended that development on the lot addition lands be required to have a minimum setback distance from any Open Space zone to ensure lasting preservation and protection of these natural features and their ecological function.

The proposal complies with the Provincial Policy Statement.

### **Official Plan**

The proposed lot addition has been reviewed under the policies of the Chatham-Kent Official Plan and meets these policies. It has been specifically reviewed under Section 3.10, Agricultural Area Policies, Section 4.3 Natural Heritage Features and Policies and Section 6.3.3, Planning Tools (Consent & Zoning By-law) and complies with these policies.

The Official Plan, specifically under Policy 3.10.2.18.2(d), permits consent for the enlargement of an existing lot in the Agricultural Area where:

- i) the viability of the retained lot as a farm parcel is not threatened;*
- ii) a need must be demonstrated in which the proposed enlargement is for a non-farm use;*

*iii) the proposed severance must merge with the lot being enlarged in accordance with Sections 50(3) and (5) of the Planning Act.*

The proposed lot addition is to provide the receiving lot with a more suitable building area and to ensure the adjacent natural heritage feature is not threatened. The retained parcel will be approximately 16.5 ha (40.7 ac.) in area and will remain a viable farm parcel. The proposal will not further any land use incompatibility issues that may currently be present in the subject area. The receiving lot maintains lot frontage on Communication Road while the retained parcel will continue to maintain access through a crossing along Fargo Road.

A condition of this consent is that a one-foot-square first be taken from the adjacent receiving lot along Communication Road which will spoil the legal description of the lot which has previously been granted Planning Act Consent, and would otherwise remain a separate lot. This will ensure the lands will merge in accordance with the above-noted policy.

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.*

The proposal is further supported through Section 4.4, Natural Heritage Features and Policies, which contains policies specific to natural heritage features, of which, the overall objective is to:

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

The recommended rezoning of the subject lands will ensure that the natural heritage feature will be protected for the long-term while permitting adjacent lands to continue to function.

### **Zoning By-law**

As indicated above, and to implement the severance, a portion of the receiving lot is proposed to be rezoned to the site-specific Open Space-1358 (OS1-1358) zone. This site-specific zoning limits permitted uses to Conservation, which permits only uses that protect the natural feature from effects of human activity. This will maintain the same

overall building area and ensure any proposed uses on the receiving lot maintain adequate distance from the natural heritage feature.

The lot addition lands are required to be rezoned to the same site-specific Agricultural zone as the adjacent portion of the receiving lands. This site-specific zoning prohibits the erection of any building or structure closer than 30 m from an Open Space (OS1) zone while also recognizing existing lot deficiencies.

As a result of the proposed severances, the lot area of the retained parcel will be further reduced. As such, the site-specific Agricultural zone will be amended to address this deficiency.

## **Conclusion**

The proposed severances 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.

Prepared by:



Allison Lambing  
Planner II, Planning Services

Reviewed by:




Anthony Jas  
Planner I, Planning Services

Reviewed by:



Ryan Jacques, MCIP, RPP  
Director, Planning Services

Reviewed by:



Bruce McAllister, MCIP, RPP  
General Manager  
Community Development

Attachments: Appendix A – Applicant's Sketch

Appendix B – Key Map

Appendix C – Site Photos

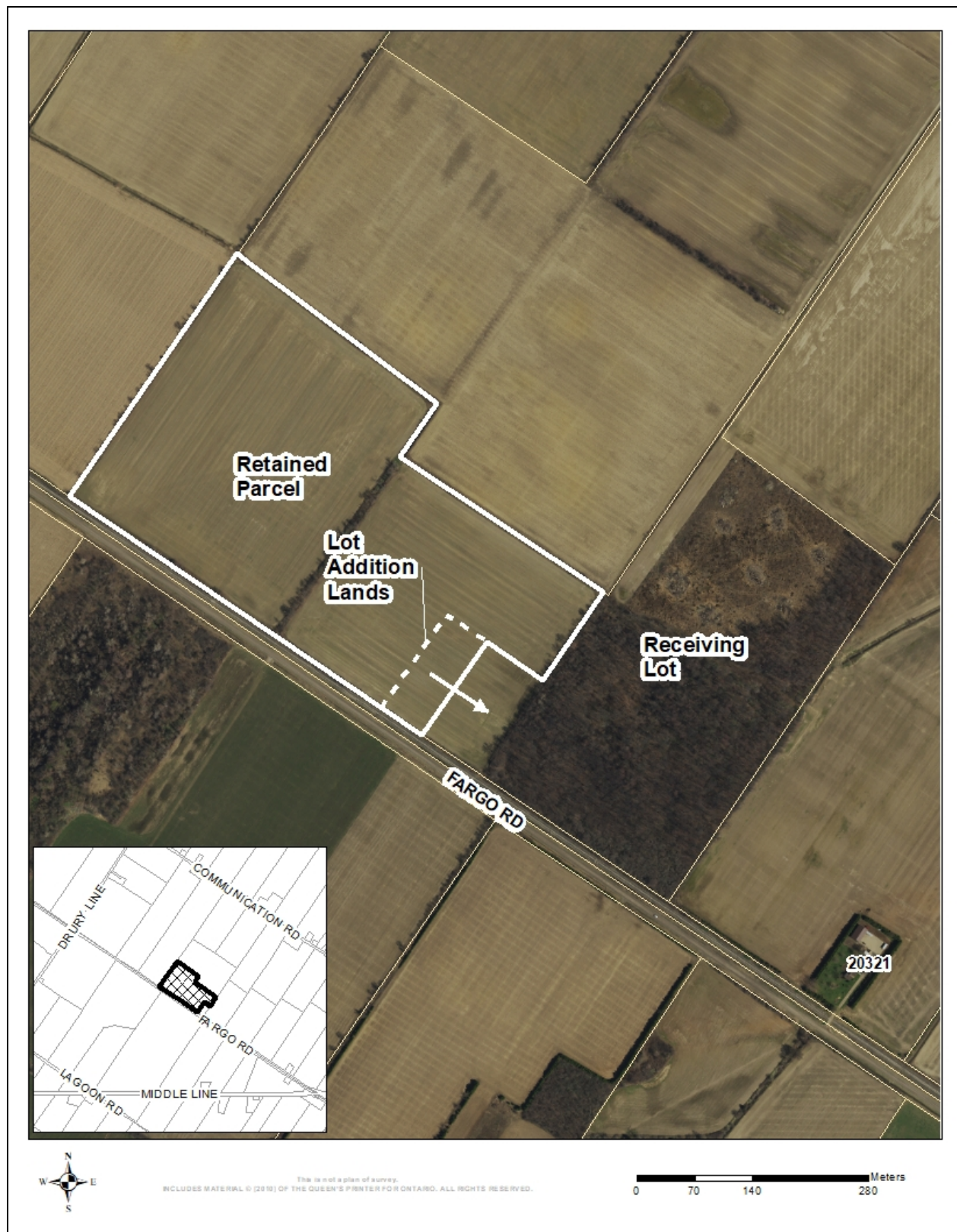
Appendix D - Letter from Applicant dated March 5, 2021

Appendix E – Letter from Applicant dated March 6, 2021

By-law to amend By-law 216-2009

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Report.docx

Appendix A – Key Map





## Appendix B – Site Photos



Looking east towards the receiving lot.



Looking northeast towards the retained parcel.



**SCHEDULE OF PARTS**

PART	LOT	CONCESSION	PIN
1	PART OF 16	1, WCR	PART OF 00907-0088

THIS PLAN COMPRISES PART OF PIN 00907-0088

PLAN OF SURVEY  
OF PART OF LOT 16  
CONCESSION 1  
WEST OF COMMUNICATION ROAD  
GEOGRAPHIC TOWNSHIP OF HARWICH  
MUNICIPALITY OF CHATHAM-KENT

**SURVEYOR'S CERTIFICATE**

I CERTIFY THAT:

- THE SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT, THE LAND RULES ACT, AND THE REGULATIONS MADE UNDER THEM.
- THE SURVEY WAS COMPLETED ON THE \_\_\_\_\_ (DATE) \_\_\_\_\_ S.D. HOSE  
ONTARIO LAND SURVEYOR

**NOTES**

BEARINGS ARE UTM GRID, DERIVED FROM OBSERVED REFERENCE POINTS A AND B, BY REAL TIME NETWORK (RTN) OBSERVATIONS, UTM ZONE 17, NAD83, (CRS) (2010) TORQUE.

DISTANCES ARE GROUND AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE CORRESPONDING SCALE FACTOR OF 0.999999999.

OBSERVED REFERENCE POINTS (ORP) A & B, UTM, ZONE 17, NAD83 (CRS) (2010), COORDINATES TO LAMBDA ACCURACY FOR SEC. 14 (1) OF O. REG. 216/10.

POINT ID	NORTHING	EASTING
ORP A	15381550.97	1358095.82
ORP B	15381533.70	1358742.10

COORDINATES CANNOT, IN FUTURE, BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.

B DENOTES BOUND  
 C DENOTES SET  
 R DENOTES IRON BAR  
 SSB DENOTES SHORT STANDARD IRON BAR  
 STD DENOTES STANDARD IRON BAR  
 RSD DENOTES ROUND IRON BAR  
 P DENOTES PLASTIC BAR  
 M DENOTES MEASURED  
 W DENOTES WITNESSED  
 S DENOTES SET  
 P DENOTES PROPERTY IDENTIFIER NUMBER

WCR DENOTES WEST OF COMMUNICATION ROAD  
 S.D. DENOTES S.D. HOSE, O.L.S.  
 S.D. DENOTES S.D. HOSE, O.L.S.  
 ORP DENOTES OBSERVED REFERENCE POINT

SCALE: 1"=60'

THE INTENDED PLOT SIZE OF THIS PLAN IS 22" IN WIDTH BY 17" IN HEIGHT WHEN PLOTTED AT A SCALE OF 1"=40'.

**HOOK & TODGHAM SURVEYING INCORPORATED**  
 CHATHAM ONTARIO  
 PHONE: 1-819-324-4122 FAX: 1-819-324-4128

Appendix D – Letter from Applicant dated March 5, 2021

March 5, 2021

Mr. Brian Leidl

15 Irene Cres

Chatham, On.N7L 5G7

Re : Woodlot on property in Con1 WCR Pt lots 15 and 16, Geographic Twp of Harwich

Dear Mr. Leidl

I am writing to confirm the points of our recent conversation regarding the woodlot on the above noted property. Constructing a house near a woodlot can affect the trees by severing roots which can extend out from the trunk a distance equal to as much as 4 times the height of the tree. These roots can eventually cause problems with septic systems if it is installed too close.

Building near a woodlot can also have detrimental affects on wildlife that lives in the forest year-round or migrates through once or twice each year. The closer the house is located to the forest edge the greater the impact. People and their pets (cats and dogs ) can interrupt life activities and cause some species to abandon the area. People often object to mosquitoes which appear to come out of the forest. They therefore decide to drain or fill in the vernal pools which are the breeding grounds and nurseries for frogs, toads and salamanders. Mowing the lawn at the forest edge can kill many of these species. Night lights disrupt the life cycles of many species of moths.

Providing a buffer between the woodlot and the house will allow the woodland residents to continue to use the woodlot and will allow the expansion of territory of some human tolerant species like gray squirrels, rabbits and many species of birds. If shrubs and pollinator plants are encouraged to grow in this buffer area there will be an increase in butterflies, moths and other insects as well as bird species that eat insects. Tall species of trees in this buffer should be kept well spaced and back near the existing forest. Short species like the service berries, nannyberry and alternate dogwood provide food and habitat for a wide range of wildlife without long roots stretching out to weeping beds and foundations. At the edge of the buffer closest to the house a hedge of native shrubs like elderberry, red-osier dogwood and silky dogwood would provide food in the form of berries as well as browse .They will also provide an attractive border between the buffer zone and the residence.

In short it would be very beneficial to the function of the forest to move the house and other buildings back 60 meters from the forest.

If you require any additional information regarding your woodlot and its management please contact me at any time.

Donald C Craig RPF

Appendix E – Letter from Applicant dated March 6, 2021

March 6, 2021

Mr. Brian Leidl

15 Irene Crescent

Chatham, ON, N7L 5G7

Re: Woodlot and Building Home on Fargo Line thinking about the wildlife

Dear Mr. Leidl

I wanted to let you know that I am very impressed with your intentions and thought process regarding saving both a bush (one of the largest in the Blenheim area) and in doing so protecting countless species of flora and fauna – including one of the biggest wild turkey flocks in Kent County. As a forester and lover of nature I only wish there were more people like you out there willing to make a difference, to protect our woodlots, as all can see they are dramatically shrinking in numbers. It was so very sad to see the bylaw get turned down when the municipality tried to protect woodlots. There were so many supporters behind that.

I have been out to Brian's Fargo bush lot many times and it is very much so worth saving and doing whatever possible to entice the wildlife to stay. There have been times that I have seen up to 70 turkey in the area and 20 deer all at the same time. This alone says something.

There are two main issues regarding building a house on the Fargo property. First, in the spring and winter the water table is high and water pools currently on at least the first 60 meters closest to the bush. A solution to this which would benefit the forest as well would be to rezone – the first 60 meters from the bush would be in many regards given back to nature as a buffer – no buildings. After all, the land is almost speaking for us with the water pooling there. I suggest, allowing in exchange, an additional 60 meters further north of the bush which is far more suitable and best for the bush. I think very similar to Donald Craig – the further from the bush the better things are for its inhabitants and by having a buffer it makes for an even more enticing woodlot for the many inhabitants. The second issue -potentially- a leaking septic system if the additional property was not obtained for building on. With the lower elevation where current buildings would be established and the occasional pooling of water this could lead to septic disasters including possible leaking which would not be a good thing. It is so much better to be proactive and build where the elevation is higher. There would be no issues with a septic system if the additional 60 m were acquired. In fact, in my opinion it is straight forward. Plus Brian is an excellent representative and ambassador for looking after the bush lot.

Please commend this young man for stepping up and making a difference. By allowing this you are making a choice that your children and grandchildren will appreciate. After all, who doesn't like to drive on a country road and see wild turkeys and deer that are still part of where we call home and are only minutes from both Blenheim and Chatham. So yes, on many fronts, it is

beneficial to the forest to move the house and other buildings 60 meters from the bush and allow Mr. Leidl to acquire 60 meters to the north of the bush in exchange.

At any time, if you would like to discuss my statements or discuss wildlife management please contact me as I am passionate not only about saving bush properties but also ensuring that the many inhabitants that call a woodlot home will stay and thrive.

Allan Miller – Forest Technician Ministry of Natural Resources-

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  
(RJ Properties Inc.)  
CityView # PL202100080

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 implement the proposed severance;

And Whereas the proposed uses 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-1470 (A1-1470) and Agricultural-1469 (A1-1469) to Agricultural-1469 (A1-1469) 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 deleting the Special Zone Provisions for Exception No. 1470, in its entirety, and replacing it with the following Special Zone Provisions:

Exception No.	Special Zone Symbol	Special Zone Provisions
1470	A1-1470	Notwithstanding any other provisions of the by-law to the contrary, the following shall also apply:  i) Minimum lot area – 16.5 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.

