

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
PL202100065– John & Patricia Sarapnickas
30196 Clachan Road, Community of Zone (East Kent)

Recommendations

It is recommended that:

1. Consent application File B-45/21 to sever and convey a new agricultural parcel, approximately 18.27 ha (45.15 ac.) in area, shown as Part 1 on the applicant's sketch, in Part of Lots 1 & 2, Concession North of Longwoods Road, in the Community of Zone, be approved, subject to the following conditions:
 - a) that the Chatham-Kent Zoning By-law be amended to:
 - i) rezone the severed parcel shown as Part 1 on the applicant's sketch, to a site specific Agricultural-1551 (A1-1551) Zone, to implement a 30 m (98.4 ft.) development setback from an Open Space (OS1) Zone, and reduce the Lot Area Minimum to 18.27 ha (45.15 ac.);
 - ii) rezone a portion of the retained parcel shown as Part 3 on the applicant's sketch, to a site specific Agricultural-1553 (A1-1553) 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 3.96 ha (9.79 ac.);
 - iii) rezone a portion of the retained parcel shown as Part 3 on the applicant's sketch, to a site-specific Open Space-1353 (A1-1353) Zone, to permit conservation uses; and,
 - iv) rezone a portion of the retained parcel shown as Part 3 on the applicant's sketch, to Hazard Land (HL), to recognize a Provincially Significant Wetland

- (PSW) present on the property;
- 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-46/21 to sever and convey a new agricultural parcel (30196 Clachan Road), approximately 18.28 ha (45.16 ac.) in area, shown as Part 2 on the applicant's sketch, in Part of Lots 1 & 2, Concession North of Longwoods Road, in the Community of Zone, be approved, subject to the following conditions:
- a) that the Chatham-Kent Zoning By-law be amended to:
 - i) rezone the severed parcel shown as Part 2 on the applicant's sketch, to a site specific Agricultural-1552 (A1-1552) Zone, to implement a 30 m (98.4 ft.) development setback from an Open Space (OS1) Zone, and reduce the Lot Area Minimum to 18.28 ha (45.16 ac.).
 - 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).
3. Zoning By-law Amendment application File D-14 ZO/20/21/S, be approved, and the implementing by-law be adopted.

Background

The subject property is located on the west side of Clachan Road, south of MacEwan Line, in the Community of Zone (Roll Nos. 3650 310 003 22400 & 22500). The lands are approximately 58.15 ha (143.68 ac.) in area and contain a single detached dwelling (30196 Clachan Road), 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 is proposing to sever and convey two (2) new agricultural parcels from the subject property. The new parcels are shown as Parts 1 & 2 on the applicant's sketch attached as Appendix C. Part 1 consists of vacant farmland and has frontage along Clachan Road and MacEwan Line. Part 2 is comprised of farmland, and a portion of a Significant Woodland, and contains the existing dwelling and outbuildings, and has frontage along Clachan Road. The retained parcel is shown as Part 3 on the applicant's sketch, will be approximately 21.60 ha (53.37 ac.) in area, and contains a portion of a Significant Woodland and farmland, and has frontage along MacEwan Line.

To implement the proposed Consent, a Zoning By-law Amendment application is required to:

- Rezone the severed parcel shown as Part 1 on the applicant's sketch, to a site specific Agricultural-1551 (A1-1551) Zone, to implement a 30 m (98.4 ft.) development setback from an Open Space (OS1) Zone, and reduce the Lot Area Minimum to 18.27 ha (45.15 ac.).
- Rezone the severed parcel shown as Part 2 on the applicant's sketch, to a site specific Agricultural-1552 (A1-1552) Zone, to implement a 30 m (98.4 ft.) development setback from an Open Space (OS1) Zone, and reduce the Lot Area Minimum to 18.28 ha (45.16 ac.).
- Rezone a portion of the retained parcel shown as Part 3 on the applicant's sketch, to a site specific Agricultural-1553 (A1-1553) Zone, to implement a 30 m (98.4 ft.) development setback from an Open Space (OS1) Zone, and reduce the Lot Area Minimum to 3.96 ha (9.79 ac.).
- Rezone a portion of the retained parcel shown as Part 3 on the applicant's sketch, to a site-specific Open Space-1353 (A1-1353) Zone, to permit conservation uses.
- Rezone a portion of the retained parcel shown as Part 3 on the applicant's sketch, to Hazard Land (HL), to recognize a Provincially Significant Wetland (PSW) present on the property.

The proposal is discussed in more detail under the Comments section below.

Comments

Provincial Policy Statement (PPS)

The PPS includes policy direction regarding the wise use and management of resources. More specifically, it provides clear direction to identify and protect natural heritage features and areas for the long-term. 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.

The existing Significant Woodland and Provincially Significant Wetland on the subject property are identified natural heritage features. It is the intent of this application to ensure the protection of each for the long-term.

Therefore, to implement the direction of the PPS, it is recommended that the Significant Woodland on the retained parcel be rezoned to the site specific Open Space-1353 (OS1-1353) Zone that limits permitted uses to those that will have no negative impact to the existing woodlands or its ecological function. It is also recommended that development on lands adjacent to the OS1-1353 Zone be required to have a minimum setback distance of 30 m (98.4 ft.), thereby further enhancing the protection of the woodlands. With respect to the Provincially Significant Wetland on the retained parcel, it is recommended that these lands be rezoned to Hazard Land (HL) to recognize a PSW is present on the property, and to further restrict development in this area of the property.

Overall, the proposal is consistent with the policies of the PPS.

Official Plan

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, Section 4.0, Environment, and Section 6.3.3, Planning Tools (Consent and Zoning By-law), and generally meets these policies.

Agricultural Area Policies

The Official Plan contains policies pertaining to the severing of lands in the Agricultural Area. Specific to this application, these policies permit a severance where the minimum lot area of both the severed and retained parcels is 20 ha (49.4 ac.). In Section 3.10.2.18.2(a), it further considers smaller lot sizes where:

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

- *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;*
- *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.*

The two (2) severed parcels, being Part 1 and Part 2 on the applicant's sketch, are proposed to be 18.27 ha (45.15 ac.) and 18.28 ha (45.16 ac.) in area. Each severed parcel will remain appropriate for the type of agricultural purpose, common for the type of agriculture in the area, and remain sufficiently large to maintain flexibility for any possible future changes in the type or size of agricultural operations. Part 3, the retained parcel, exceeds the minimum lot area requirement when the farmed area and woodland area are taken together.

There is no shared drainage and both the proposed 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.

Furthermore, like 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 Area, as per Section 3.10.2.12, which states:

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.

Environment Policies

Section 4.0, Environment, provides policies related to the natural environment and the protection of those resources. The objective regarding natural heritage features and areas includes their preservation and restoration for the long-term. This includes the protection of their ecological processes to promote a healthy ecosystem. As such, it is 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.*

Schedule "C", Natural Heritage and Hazard Features, of the Official Plan, identifies the natural heritage features on the subject lands as Significant Woodland and Provincially Significant Wetland.

The Significant Woodland designation is based on the Provincial Policy Statement Natural Heritage Reference Manual, which states:

where woodland is less than 5% of the land cover, woodlands 2 ha (4.9 ac.) in size or larger should be considered of significance.

The overall forest cover in Chatham-Kent amounts to less than 4% of the total land area. This is significantly less than pre-settlement and well below the Environment Canada Guidelines of 30%. As such, the existing woodlands on the subject property are deemed to be of significance and are to be preserved and protected, including their ecological functions, for the long-term.

The recommended rezoning of the retained parcel will ensure that the interests of the Municipality are protected. Specifically, the Significant Woodland on the retained parcel will 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 Hazard Land (HL), which will restrict development in this area of the property. The remainder of the lands on both the proposed severed and retained parcels are being rezoned to implement a 30 m (98.4 ft.) development setback from the Open Space (OS1) Zone, further enhancing the protection of the natural heritage features.

Overall, the rezoning of the property intends to protect and preserve the existing natural heritage features for the long-term, while permitting existing uses to continue.

Zoning By-law

As described above, to implement the proposed consent, a Zoning By-law Amendment application is required to provide relief from the Chatham-Kent Zoning By-law No. 216-2009, as amended, to:

- Zone the farmed lands to a site-specific Agricultural (A1) zone, which also recognizes the agricultural zoned area, and implements a 30 m development setback from natural heritage features.

- Zone the Significant Woodland present on the retained parcel to Open Space-1353 (OS1-1353).
- Zone the Provincially Significant Wetland present on the retained parcel will be rezoned to Hazard Land (HL).

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.

Prepared by:

Reviewed by:

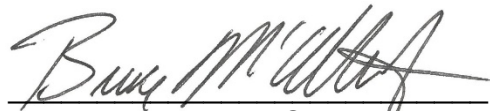


Noor Hermiz, CPT
Planner II, Planning Services



Ryan Jacques, MCIP, RPP
Director, Planning Services

Reviewed by:

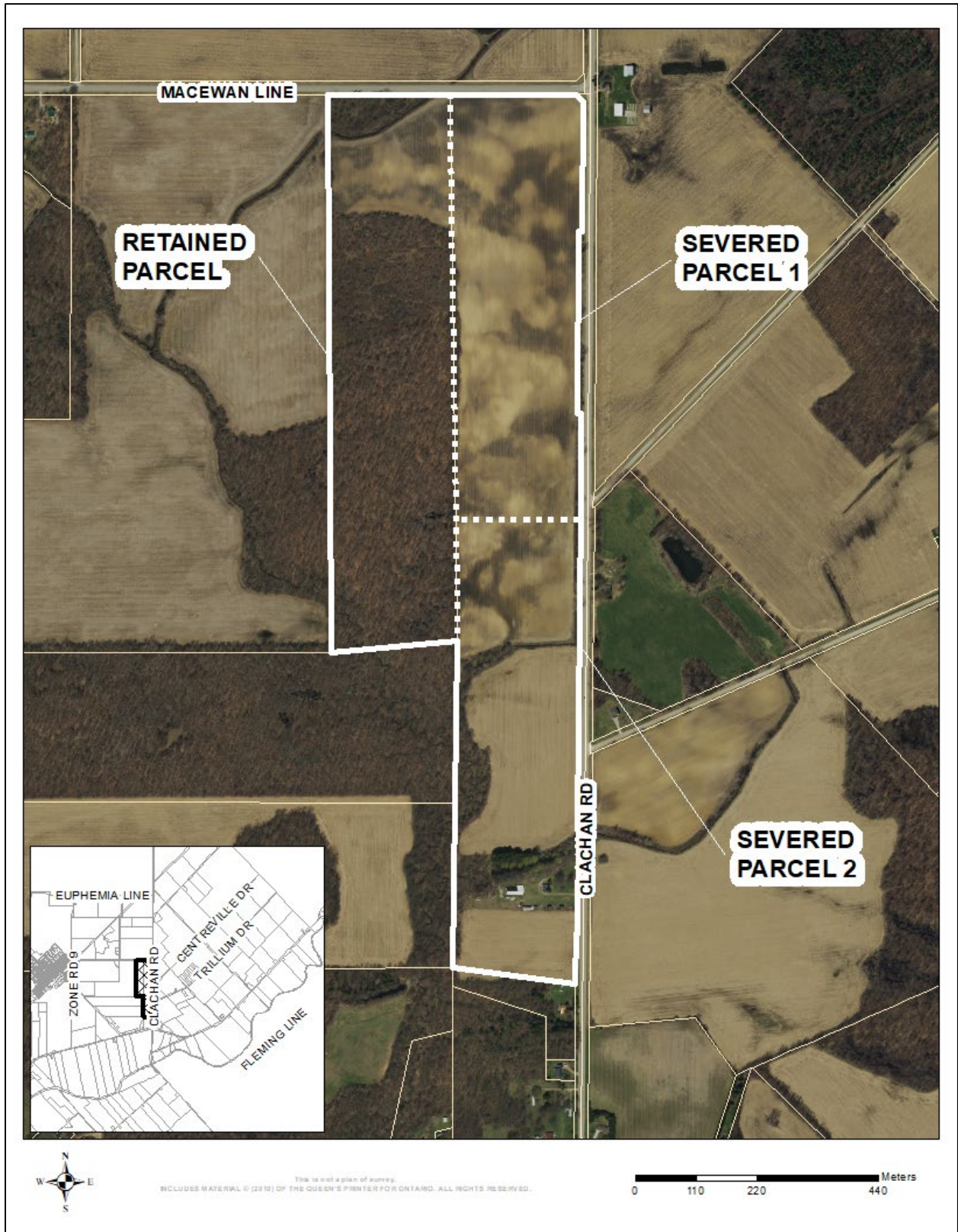


Bruce McAllister, MCIP, RPP
General Manager, Community Development

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

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Report.docx

Appendix A – Key Map



Appendix B – Site Photos



Looking west towards the proposed line of severance separating Part 1 on the applicant's sketch (right) from Part 2 (left), from Clachan Road.

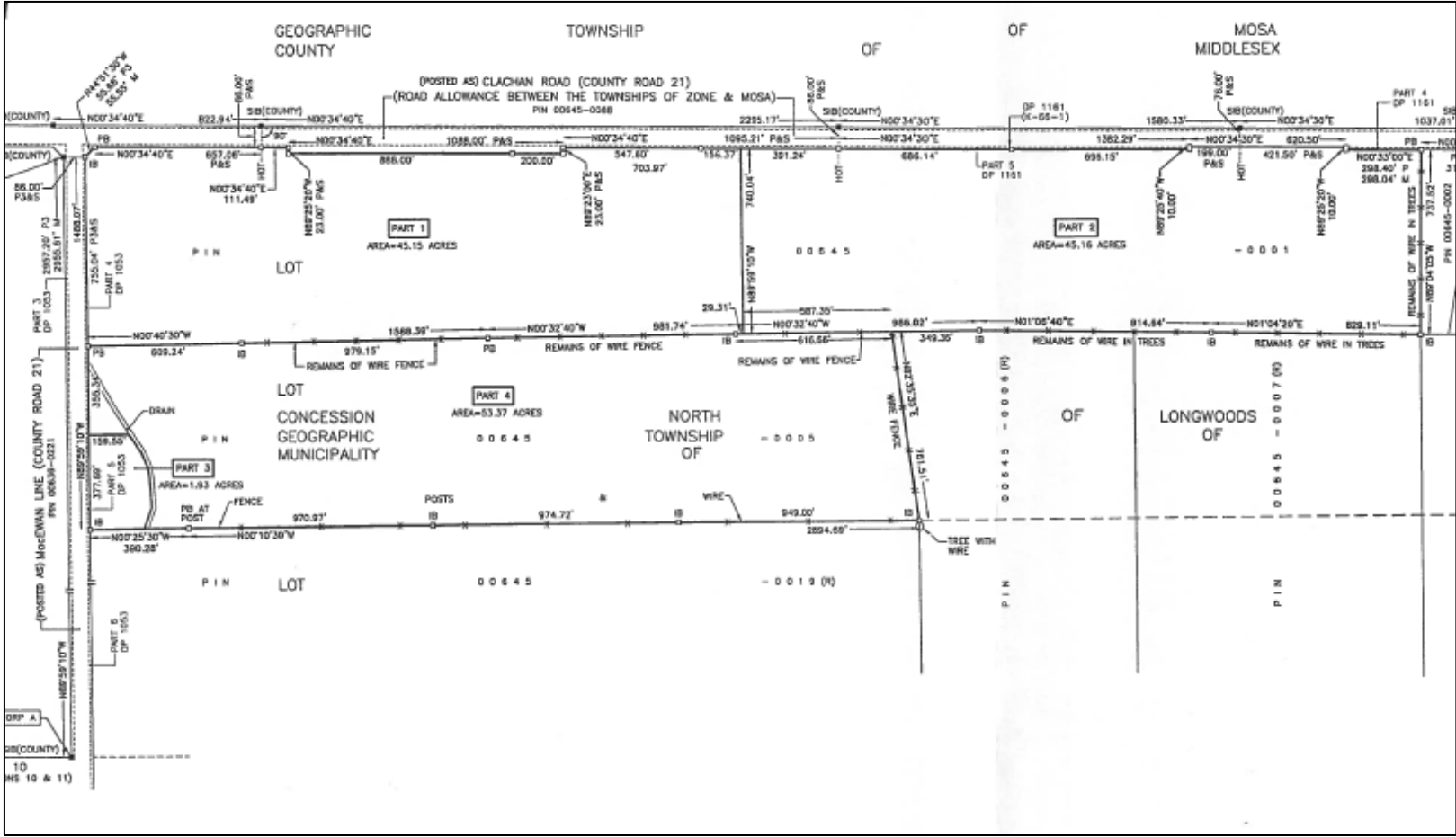


Looking west towards the existing dwelling and outbuildings on the severed parcel described as Part 2 on the applicant's sketch, from Clachan Road.



Looking south towards the proposed line of severance separating Part 2 on the applicant's sketch (left) from Part 3 (right), from Macewan Line.

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

(John & Patricia Sarapnickas)

CityView # PL202100065

Whereas an application has been received for an amendment to the zoning by-law for certain parcels of land in the Community of Zone in order to rezone the lands to permit the severance of two agricultural parcels, to permit conservation uses, implement a 30 m (98.4 ft.) development setback from an Open Space Zone, and recognize a Provincially Significant Wetland present on the property;

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-1551 (A1-1551), Agricultural-1552 (A1-1552), Agricultural-1553 (A1-1553), Open Space-1353 (OS1-1353), and Hazard Land (HL) 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:
 - 1551
 - 1552
 - 1553
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:
 - A1-1551
 - A1-1552
 - A1-1553
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
1551	A1-1551	<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="711 384 1406 599">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="711 639 1312 680">ii) Lot Area Minimum – 18.27 hectares
1552	A1-1552	<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="711 827 1406 1042">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 1083 1312 1123">ii) Lot Area Minimum – 18.28 hectares
1553	A1-1553	<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 1271 1406 1486">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 1526 1325 1567">ii) Lot Area Minimum – 3.96 hectares+

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.

