



**The Corporation of the  
Town of Tecumseh**

**Planning Report**

**To:** Committee of Adjustment

**From:** Chad Jeffery, MA, MCIP, RPP

**Hearing Date:** May 30, 2022

**Subject:** **Severance Applications B-04-22 to B-09-22**  
**Minor Variance Applications A-11-22 and A-12-22**

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Please note that this Planning Report was prepared as of May 27, 2022. Any public comments received after this date have not been incorporated into this Report, however consideration of such public comments will be given at the Committee of Adjustment hearing on May 30, 2022 as the normal practice.

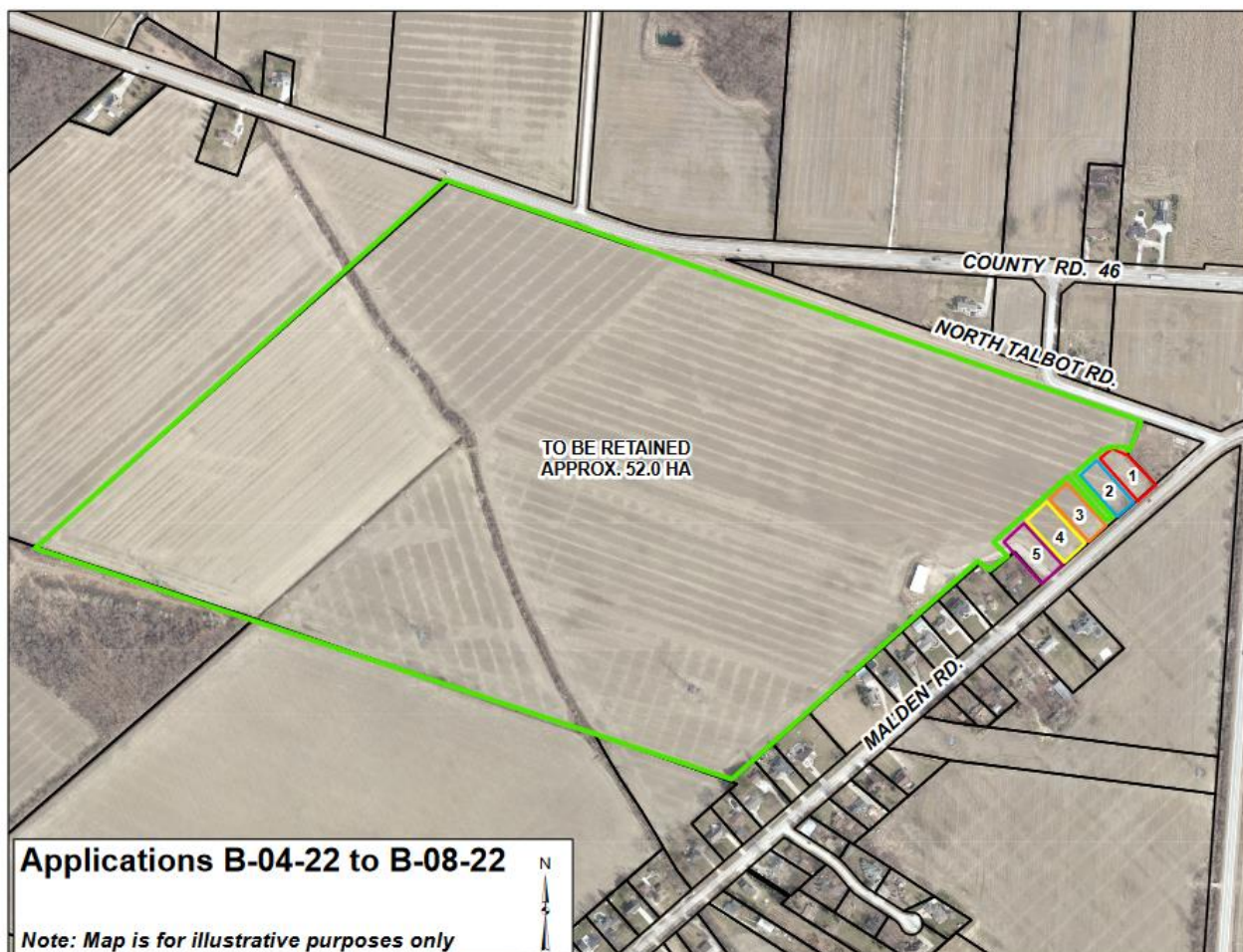
<b>Application:</b>	<b>Severance Applications B-04-08-22</b>
<b>Applicant:</b>	<b>851381 Ontario Limited</b>
<b>Location of Property:</b>	<b>5881 Malden Road</b>

The purpose of the consent applications is to:

1. B-04-22: sever a vacant residential lot having a frontage of approximately 30.48 metres (100 feet), an irregular depth and a lot area of approximately 1956 square metres (21,054 square feet) identified as Lot 1 on the sketch below (outlined in red);
2. B-05-22: sever a vacant residential lot having a frontage of approximately 30.48 metres (100 feet), a depth of approximately 68.57 metres (225 feet) and a lot area of approximately 2090 square metres (22,496 square feet) identified as Lot 2 on the sketch below (outlined in blue);
3. B-06-22: sever a vacant residential lot having a frontage of approximately 34.27 metres (112.4 feet), a depth of approximately 68.57 metres (225 feet) and a lot area of approximately 2349.8 square metres (25,293 square feet) identified as Lot 3 on the sketch below (outlined in orange);

4. B-07-22: sever a vacant residential lot having a frontage of approximately 34.27 metres (112.4 feet), a depth of approximately 68.57 metres (225 feet) and a lot area of approximately 2349.8 square metres (25,293 square feet) identified as Lot 4 on the sketch below (outlined in yellow);
5. B-08-22: sever a vacant residential lot having a frontage of approximately 34.27 metres (112.4 feet), a depth of approximately 68.57 metres (225 feet) and a lot area of approximately 2349.8 square metres (25,293 square feet) identified as Lot 5 on the sketch below (outlined in purple); and
6. Retain an agricultural lot having a frontage of approximately 23 metres (75.4 feet) on Malden Road, an irregular depth and a total area of approximately 52.0 hectares (128.5 acres) outlined in green on the sketch below. It should be noted that this finger of land fronting on Malden Road is intended to accommodate a future municipal road consistent with the Maidstone Hamlet Secondary Plan. A portion of the retained farm lot also has flankage on North Talbot Road.

The proposed severed lands are designated Maidstone Hamlet Residential in the Tecumseh Official Plan and zoned Agricultural Zone (A-33) in Zoning By-law 85-15. The proposed retained lands are designated Agricultural and Maidstone Hamlet Residential in the Tecumseh Official Plan and zoned Agricultural Zones (A) and (A-33) in Zoning By-law 85- 18.



## Provincial Policy Statement

The Planning Act establishes that the Committee, when making decisions that affect a planning matter, “shall be consistent with” the 2020 Provincial Policy Statement (“PPS”) issued under the Planning Act.

The PPS encourages and supports development on lands that are identified for urban growth in approved settlement areas. However, this development should have adequate levels of municipal servicing to justify development within these settlement areas, as identified in the following sections:

- “1.6.6.2      **Municipal sewage services** and municipal water services are the preferred form of servicing for settlement areas to support protection of the environment and minimize potential risks to human health and safety. Within settlement areas with existing municipal sewage services and municipal water services, intensification and redevelopment shall be promoted wherever feasible to optimize the use of the services.
- 1.6.6.3      Where municipal sewage services and municipal water services are not available, **planned** or feasible, **private communal sewage services** and private communal water services are the preferred form of servicing for multi-unit/lot development to support protection of the environment and minimize potential risks to human health and safety.
- 1.6.6.4      Where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not available, **planned** or feasible, **individual on-site sewage services** and individual on-site water services may be used provided that site conditions are suitable for the long-term provision of such services with no negative impacts. In settlement areas, individual on-site sewage services and individual on-site water services **may be used for infilling and minor rounding** out of existing development.”

It is important to note that municipal wastewater infrastructure is “planned” for Maidstone Hamlet in order to support development in accordance with the Town’s Water and Wastewater Master Plan. Additionally, the proposed creation of five lots is not considered to be “infilling or minor rounding out”. Accordingly, it is the opinion of the writer that the application for the proposed residential lots are not consistent with the PPS insofar as the new development should be serviced with municipal wastewater and water.

## County of Essex Official Plan (COP)

The subject lands are situated within a Secondary Settlement Area identified in the County Official Plan. As with the PPS, the County Official Plan supports development in settlement areas that provide adequate levels of municipal servicing, as identified in the following sections:

### “2.2 GROWTH MANAGEMENT

The health of the County requires that long-range land use planning and infrastructure investment is properly managed in a way that will:

- a) Direct non-resource related growth and development to settlements **where it can be serviced**, with a particular **emphasis on Primary Settlement Areas**.

## 2.10 SEWAGE AND WATER SYSTEMS

The County of Essex does not fund or maintain sanitary sewers or water systems, and the provision of those services is the responsibility of the local municipalities. However, the County does promote efficient and environmentally responsible development which is supportable on the basis of appropriate types and levels of water supply and sewage disposal **consistent with the Provincial Policy Statement**. The County encourages new development to proceed on the basis of **full municipal sewage services** and municipal water services and local municipalities are encouraged to co-ordinate their approach to, and timing of, the provision of municipal water and municipal sewage through the preparation of an overall servicing strategy.

The following servicing policies apply:

- a) **Full municipal sewage services** and municipal water services are the **preferred form** of servicing for all settlement areas.

### 3.2.5 Secondary Settlement Areas

The County recognizes the diversity among the many different Secondary Settlements Areas and accordingly has established the following policy framework that recognizes this diversity:

- a) New development will be permitted to the boundaries of the Secondary Settlement Areas as shown on Schedule "A2" provided such development is **consistent with the Provincial Policy Statement**, the intent of this Plan, and **the policies of the local Official Plan**.
- c) **New development is encouraged on full municipal services unless there are interim servicing policies in the local Official Plan that are in effect at the time of approval of this Plan."**

Based on all of the foregoing, it is the opinion of the writer that the proposed severances do not conform to the County of Essex Official Plan.

## Tecumseh Official Plan

The proposed severed lots and the eastern two-thirds of the retained parcel are designated Maidstone Hamlet Residential in the Tecumseh Official Plan. The western portion of the

retained parcel is designated Agricultural as it is outside of the Maidstone Hamlet Settlement Area. The following policies of the Town's Official Plan are relevant in the Committee's assessment of the proposed severances:

"1.4 Purpose of Plan

- v) direct all future non-agriculture development to locate within designated urban areas, where a full range of municipal infrastructure and community facilities and services can be provided in an economically and environmentally sound manner which is sustainable over the long term;

1.5.2 Municipal Profile, Existing Development Pattern, Special Studies

iii) Maidstone Hamlet Settlement Area

... Future development on greenfield sites will be in accordance with the Maidstone Hamlet Settlement Area Secondary Plan land use designations and policies contained in this Plan.

2.3 Planning Principles

- xviii) to ensure development is in accordance with long term servicing strategies for sanitary sewage treatment, the provision of potable water and storm water management;

11.2.2 Maidstone Hamlet Residential Goals

- vii) to encourage residential development in the hamlet where a full range of municipal infrastructure (including a piped sanitary sewer system) can be provided in a cost-effective and environmentally sound manner; and

11.2.3 Maidstone Hamlet Residential Policies

The following policies shall apply to those lands designated Maidstone Hamlet Residential on the Land Use Schedules of this Plan:

- viii) the creation of new lots for residential purposes will primarily occur by plan of subdivision. However, consents for residential lots will be permitted in accordance with the policies contained in Section 11.2.4 of this Plan...;
- ix) **the undeveloped lands that are designated Maidstone Hamlet Residential and have servicing constraints shall be placed in a holding zone** in the implementing zoning by-law at the time development applications are being considered by the Town or at such time prior to development applications as Council deems appropriate. The holding symbol will be removed when **appropriate sewage**, water and any other necessary infrastructure is available **to the satisfaction of the Town** and a plan of subdivision is approved, where required. Existing uses and

agricultural uses, excluding livestock intensive operations, greenhouse operations and mushroom farms, shall be permitted in the interim;

#### 11.2.4 Maidstone Hamlet Residential Land Division Policies

In areas designated “Maidstone Hamlet Residential”, division of land by consent shall only be permitted in accordance with the following policies:

- i) the creation of new lots shall be in accordance with Section 6 of this Plan;

#### 11.2.5 Maidstone Hamlet Servicing Policies

##### 11.2.5.2 Municipal Sanitary Sewer Services

**All development in Maidstone Hamlet will be serviced by municipal sanitary sewer services in accordance with Section 8.2 of this Plan.**

#### 6.0 Land Division Policies

##### 6.1 General Policies

The following policies shall apply to all designations within the Town:

- ii) the division of land will only be allowed if the proposed lots **conform to the policies of this Official Plan**;

#### 8.2 Municipal Water and Sanitary Sewer Services

##### Municipal Sanitary Sewer Services

##### 8.2.2 Policies

- i) in general, new development will be directed to the Settlement Areas, as identified on Schedule “B”. **Higher order forms of servicing, including full municipal water and sanitary sewer services are the preferred form of service infrastructure**, and will be required for all development in the Town’s Settlement Areas. **The only exception is for lands which were previously designated and zoned for development and the approved form of servicing at the time was municipal piped water and individual on-site sewage services.** This level of servicing may continue on these lands until full municipal services are extended to these areas by the Town;

...

- viii) **within lands designated Agricultural, the Town may choose to permit individual on-site sewage services** only where municipal sewage services are not provided and where site conditions are suitable for the long-term provision of such services with no negative impacts;”

As with the PPS and County OP policies mentioned above, the Tecumseh Official Plan further clarifies and establishes that development, such as the five proposed lots, is to proceed on full municipal services. Based on all of the foregoing, it is my opinion that the subject severances do not conform to the Tecumseh Official Plan.

## **Zoning By-Law**

The proposed severed lots and the eastern two-thirds of the retained lot are zoned Agricultural Zone (A-33) in Zoning By-law 85-18. The A-33 zone permits all uses currently permitted in the general (A) zone, with the exception of mushroom farms, greenhouses and livestock intensive uses. The western third of the retained lot (that portion outside of the Maidstone Hamlet Settlement Area) is zoned Agricultural Zone (A) in Zoning By-law 85-18.

## **Administration/Agency Comments**

### **1. Engineering**

- The severed lots are proposed to be serviced by municipal piped water and individual on-site septic facilities. We have reviewed the applications in the context of the Town's Water and Wastewater Master Plan and the Town's Official Plan. The proposed severed lots are required to be serviced with municipal sanitary sewers. Municipal sanitary sewers are not available at this time. The timing of municipal sanitary sewers and upgrades to the municipal water infrastructure in support of potential development lands in the Maidstone Hamlet are addressed in the Water and Wastewater Master Plan. To permit development in advance of that municipal infrastructure being provided is premature and is therefore not recommended.

### **2. Building Department**

- No comments received

### **3. Fire Services**

- No comments received

### **4. Essex Region Conservation Authority**

- The noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the North Talbot Road Drain, Gibbs Drain, Pike Creek Drain and the East Branch of the Deslisle Drain. The property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority, prior to any future construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act.

- ERCA has been advised by the Town, that the proposed lot creation(s) have no legal outlet for the stormwater management solution. As a result, the proponent would have to obtain Drainage Act approvals to get a legal outlet for the proposed residential development.

Should the design require a new drain/extension along the frontage of the lots (i.e. Malden Road), the subject properties (lot creations) may be within the regulated area and the development of the lots will need a permit or clearance from the ERCA. Please be advised that the subject property is already, partially, regulated by the ERCA (5881 MALDEN RD).

It should also be confirmed that the proposed outlet for the development, has enough capacity for the additional flows.

- The applicant will require a Permit and/or Clearance, prior to any future construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act.

5. **Bell Canada**

- No concerns.

6. **County of Essex**

- Regulations pertaining to retained portion fronting County Rd 46.

County By-Law Number 2480 – A By-Law of the Corporation of the County of Essex to Regulate the Location of Buildings and Structures on Land Adjacent to County Roads.

- The minimum setback for any proposed structures on this property must be 85 feet from the centre of the original ROW of County Road 46. Permits are necessary for any changes to existing structures, or the construction of new structures.
- No access will be permitted off County Road 46.
- No new direct connections will be permitted to County Road drains.

## **Public Comments**

Email correspondence was received from the resident at 12800 North Talbot Road with respect to the proposed applications. The resident expressed a concern with the application as he was advised in the past that a severance from his property would not be supportable due



to the noted policies of the Official Plan. The resident advised that he would like to have his proposed severance approved if the subject applications are approved.

## Summary/Recommendation

In addition to the aforementioned policies, the Planning Act, under subsection 51(24), sets out matters that the Committee is to have regard to when considering consent applications. The most relevant matters under this section in the context of the subject application are:

- “(a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan...’ and
- ....
- (i) the adequacy of utilities and municipal services;”

Based on the analysis provided, it is my opinion that the proposed severances are not in keeping with matters of provincial interest (i.e. the PPS), are premature and not in the public interest, do not conform to the Town’s Official Plan and do not have adequate municipal services.

In summary, it is my opinion that the proposed severances do not have regard for the matters to be considered under subsection 51(24) of the Planning Act, are not consistent with the PPS, do not conform to both the County and Tecumseh Official Plans and are not in keeping with good planning principles.

It is important to note that Town Administration met with the applicant prior to the submission of the severance applications. At the time of that pre-consultation meeting we advised that the proposal was not in conformity with the relevant Official Plan policies and that we would not be in a position to support the applications if they were filed.

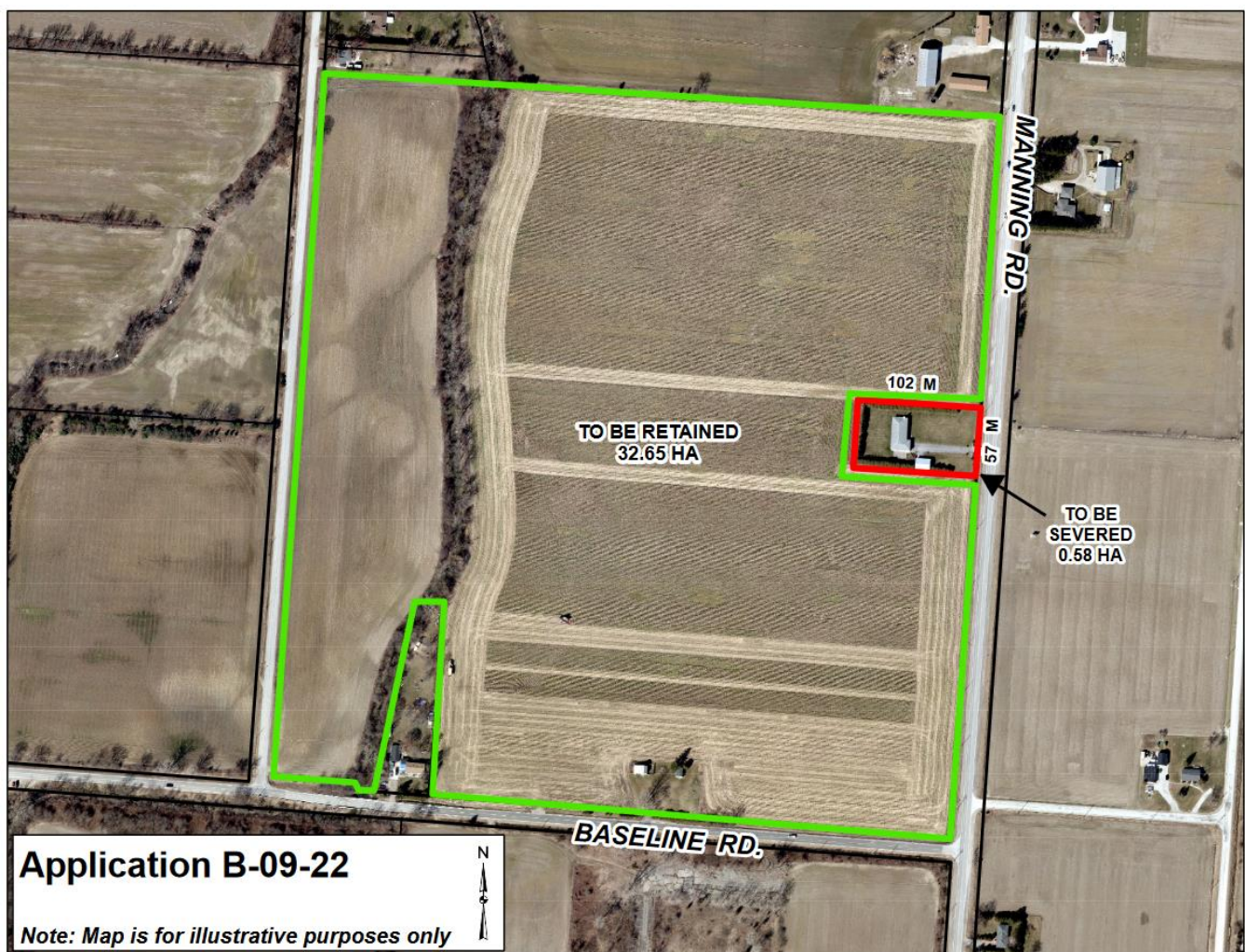
<b>Application:</b>	<b>Severance Application B-09-22</b>
<b>Applicant:</b>	<b>Maria Grazia Watson</b>
<b>Location of Property:</b>	<b>4155 Manning Road</b>

As initially submitted, the purpose of the Application was to request consent to sever a surplus dwelling lot having a frontage of approximately 57.0 metres (187.0 feet), a depth of approximately 102 metres (334.6 feet) and a lot area of approximately 0.58 hectares (1.43 acres) outlined in red on the below sketch. The proposed severed lot encompasses the existing tree-line, house and accessory building.

The retained farm parcel, outlined in green on the sketch below, has an approximate lot area of 32.65 hectares (80.68 acres) and contains two farm buildings.

Subsequent to the notice being mailed-out, the applicant had a reference plan completed in order to determine the precise lot area of the proposed surplus dwelling lot. As a result, the subject surplus dwelling lot has been determined to be 0.53 hectares (1.31 acres) rather than the approximated 0.58 hectares (1.43 acres) stipulated in the notice of public hearing. The resulting retained farm parcel is now 32.6 hectares (80.56 acres).

The lands are designated Agricultural in the Tecumseh Official Plan and zoned Agricultural Zone (A) in the Zoning By-law 85-18.



## Provincial Policy Statement

The *Planning Act* establishes that the Committee, when making decisions that affect a planning matter, “shall be consistent with” the 2020 Provincial Policy Statement (“PPS”) issued under the *Planning Act*. The PPS establishes the following land division policy for surplus dwelling severances on Agricultural lands:

“2.3.4 Lot Creation and Lot Adjustments

2.3.4.1 Lot creation in prime agricultural areas is discouraged and may only be permitted for:

- c) a residence surplus to a farming operation as a result of farm consolidation, provided that:
  - 1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and
  - 2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective.”

Based on the foregoing, it is the opinion of the writer that the application for the proposed agricultural severance is consistent with the PPS provided the retained farm parcel is rezoned to prohibit a residential dwelling.

## **County of Essex Official Plan (COP)**

The subject lands are situated within the Agricultural areas identified in the County Official Plan. As with the PPS, the County Official Plan permits the creation of a lot to accommodate a residence surplus to a farming operation as a result of farm consolidation subject to the local Zoning By-law being amended to prohibit a new residential dwelling on the remnant parcel of farmland created by the severance. Accordingly, it is the opinion of the writer that the proposed severance meets the intent of the County of Essex Official Plan subject to this condition being imposed.

## **Tecumseh Official Plan**

The proposed severed and the retained parcels are designated Agricultural in the Tecumseh Official Plan. The land division policies of the Agricultural designation permit the granting of a consent to sever a dwelling unit that is considered surplus to the needs of the farming operation as a result of the acquisition of additional farm property, subject to meeting various policy criteria.

The proposed application meets these criteria however, in accordance with subsection 6.4.1 ii) b), the size of a surplus dwelling lot cannot be greater than 0.5 hectares, except where natural or man-made features or servicing requirements dictate otherwise. The size of the proposed surplus dwelling lot, at 0.53 hectares, is largely dictated by the existing structures and tree-line on the property. No farmland is being taken out of production.

Subsection 6.4 iv) of the consent policies states:

- “ 1. Consents shall be granted only if they comply with the provisions of the Town’s Zoning By-law. Where a by-law amendment or minor variance is necessary, it shall be a condition of the decision.”
2. As with the County Official Plan, the Tecumseh Official Plan requires that as a condition of the consent, the retained farm parcel will be rezoned to prohibit a residential dwelling from being constructed upon it. Accordingly, if the Committee decides to grant the severance, it should also be made conditional to the requisite rezoning establishing a new maximum lot area for the surplus dwelling lot. Subject to this condition being imposed, it is my opinion that the subject application conforms to the Tecumseh Official Plan.”

## **Zoning By-Law**

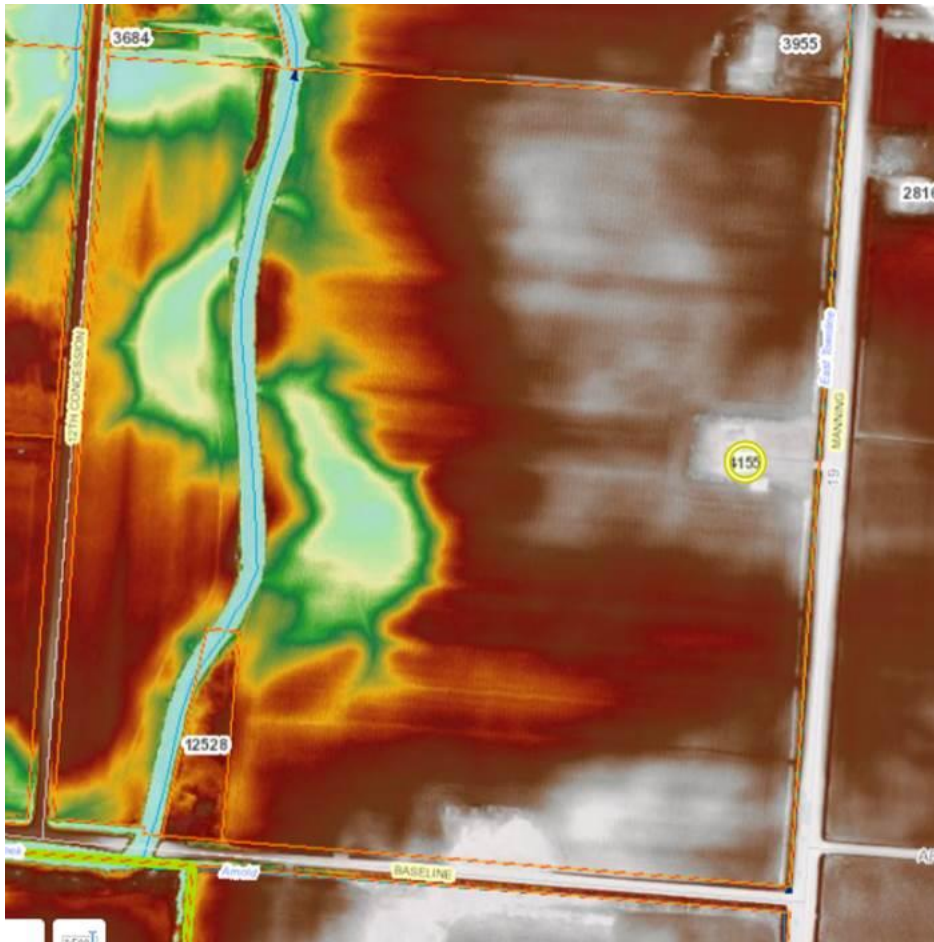
The proposed severed and retained lots are zoned Agricultural Zone (A) in Zoning By-law 85-18. As noted above, if the Committee decides to grant the severance, it must be made conditional to the retained farm parcel being rezoned into a site-specific “Agricultural Zone (A)” that would prohibit a residential dwelling and the severed lot being rezoned to establish a maximum lot area of 0.53 hectares (1.31 acres).

## **Administration/Agency Comments**

### **3. Engineering**

- That the Owner enter into, and provide the Town of Tecumseh, a written agreement for the reapportionment of the drainage assessment for the subject lands, in accordance with Section 65(2) of the Ontario Drainage Act, RSO. 1990, as amended and that the associated costs of same be borne solely by the Applicant.
- That the Applicant be required to provide and implement an engineered drainage and grading plan (prepared by a qualified professional engineer) for the parcel to be severed, to ensure that runoff from the severed parcel is prevented from flowing onto the retained parcel, to the satisfaction of the Town of Tecumseh Chief Building Official, prior to the severance being finalized.





- That the Applicant be required to modify any sub-surface drainage tiles that are located on the parcel to be severed to disconnect them from sub-surface drainage tiles on the parcel to be retained to the satisfaction of the Town of Tecumseh Chief Building Official, prior to the severances being finalized.

4. **Building Department**

- No comments received.

5. **Fire Services**

- No comments received.

6. **Essex Region Conservation Authority**

- The lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Sullivan Creek Drain, Pike Creek Drain, East Townline Road Drain and H.g. Arnold Drain. The property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority prior to any future

construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act.

- The municipal drain typically has an unregistered working space, the municipality has the right to use to maintain or repair the drain. In addition, specific building setbacks from a municipal drain are applicable. Please contact your local municipality's drainage superintendent for more information.
- With the review of background information and aerial photograph, ERCA has no objection to this application for Consent. The applicant must obtain a Permit and/or Clearance prior to any future construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act.

**7. Bell Canada**

- No concerns

**8. County of Essex**

- The minimum setback for any proposed structures on this property must be 85 feet from the centre of the original ROW of County Road 19. Permits are necessary for any changes to existing entrances and structures, or the construction of new structures. No new access will be permitted off County Road 19.
- No new direct connections will be permitted to County Road drains. We are requesting a copy of the Decision on the aforementioned applications.
- Should these applications be approved we are requesting a copy of the revised survey plan of the subject lands in order to update our mapping records.

## **Public Comments**

No public comments were received as of time of the writing of this report.

## **Summary/Recommendation**

In the absence of additional public input or the introduction of other pertinent issues, it is my opinion that the proposed severance is consistent with the PPS, conforms to both the County and Tecumseh Official Plans and is in keeping with good planning principles.

The public hearing, in accordance with the requirements of *the Planning Act*, will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and other interested stakeholders/agencies. It is important that the concerns and comments of these stakeholders be taken into consideration as part of the full evaluation of the application.

## Recommended Conditions

1. Based on the information provided within this Application and in this report, it is recommended that this Application, if approved, be subject to the following conditions:
2. That at the time the conveyance is prepared for certification, two (2) copies of the reference plan by an Ontario Land Surveyor as well as digital files (.pdf and .dwg) with the .dwg files being in NAD 83 format (UTM Zone 17 Metric), which has been numbered, dated, signed and registered must be submitted to the Town;
3. That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year paid in full, as well as any and all arrears owing on the total parcel;
4. That the appropriate documents for the conveyance be prepared in triplicate (3) suitable for registration, all copies to have original signatures, with one copy to remain as a record with the Town;
5. That any cost in excess of the \$650.00 non-refundable application fee, incurred to process this application such as legal and engineering fees, appraisal reports, etc. shall be the responsibility of the applicant and shall be payable to the Town of Tecumseh where applicable, prior to final consent;
6. That the retained farm parcel be rezoned to prohibit a residential dwelling and the surplus dwelling lot be rezoned to establish a maximum lot area of 0.53 hectares, prior to final consent;
7. That the Owners enter into, and provide the Town of Tecumseh, a written agreement for the reapportionment of the drainage assessment for the subject lands, in accordance with Section 65(2) of the Ontario Drainage Act, R.S.O. 1990, as amended, and that the associated costs of same be borne solely by the Applicant. Apportionments for affected Municipal Drains are required and are to be assessed against the lands affected in accordance with any past, current or future drainage by-laws, until otherwise determined under the provisions of the Drainage Act;
8. That the parcel to be severed is to be serviced with a separate entrance, water supply and septic system to the satisfaction of the Town of Tecumseh Public Works, Water and Building Departments prior to this severance being finalized;
9. That the Applicant be required to provide and implement an engineered drainage and grading plan (prepared by a qualified professional engineer) for the parcel to be severed, to ensure that runoff from the severed parcel is prevented from flowing onto the retained parcel, to the satisfaction of the Town of Tecumseh Chief Building Official, prior to the severance being finalized;
10. That the Applicant be required to modify any sub-surface drainage tiles that are located on the parcel to be severed to disconnect them from sub-surface drainage tiles on the parcel to be retained to the satisfaction of the Town of Tecumseh Chief Building Official, prior to the severances being finalized; and

11. That the above conditions be fulfilled on or before June 3, 2024 prior to this severance being finalized.

**Application: Minor Variance Application A-11-22**

**Applicant: CMR Investments Inc.**

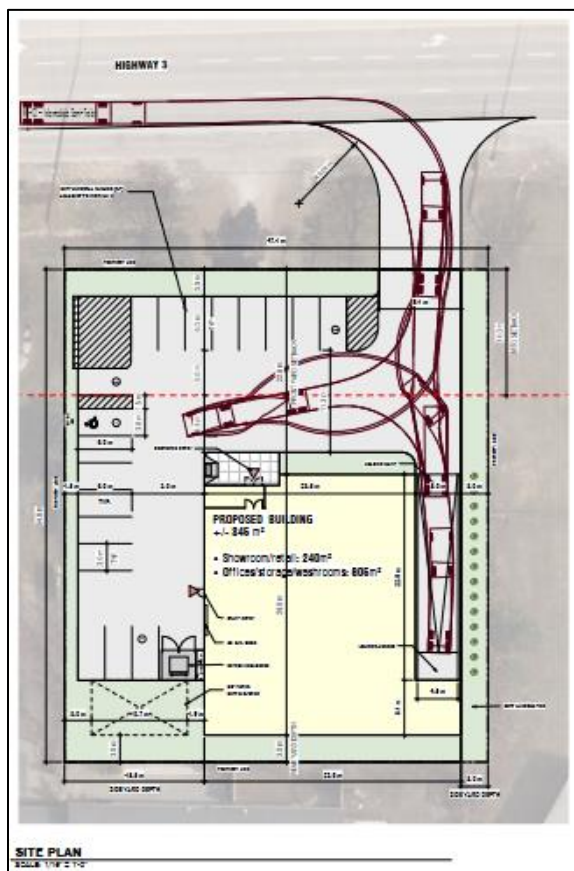
**Location of Property: 2165 Highway 3**

The purpose of the Application is to request relief from the following subsections of Zoning By-law 85-18:

- i) Subsection 10.1.11 which establishes a minimum rear yard depth of 7.5 metres (24.6 feet); and
- ii) Subsection 5.33 which establishes that 46 parking spaces are required including 2 barrier free.

The proposed relief will facilitate the construction of a new commercial building (Rock Solid Windows) having a rear yard depth of 3.0 metres (9.8 feet) and a total of 18 parking spaces including one barrier free space in accordance with the site plan below.

The property is designated General Commercial in the Tecumseh Official Plan and zoned Hamlet Commercial Zone (CH-3) in Zoning By-law 85-18.





In accordance with the Planning Act, the Committee must be satisfied that the four tests set out in subsection 45(1) are met. The following comments are offered with respect to the subject applications:

## **Is the intent of the Official Plan maintained?**

1. The subject property is designated General Commercial in the Official Plan. This designation permits a wide range of commercial uses. The proposed variance, which will facilitate the construction of a new commercial building (Rock Solid Windows), meets the intent of the Official Plan.

## **2. Is the intent of the Zoning By-law maintained?**

As noted above the subject property is zoned Hamlet Commercial Zone (CH-3) in Zoning By-law 85-18.

The purpose of the 7.5 metre (24.6 foot) minimum rear yard depth provision is to ensure that there is sufficient separation for a structure from its respective rear lot line to allow for appropriate access and area for exterior maintenance of the rear building facade. The proposed rear yard depth of 3.0 metres (9.8 feet) is required in order to shift the proposed building as far south on the property as possible in order to facilitate appropriate on-site turning movements for truck/delivery vehicles, along with satisfying an increased front yard depth/setback from Highway #3, as required by the Ministry of Transportation. The proposed rear yard depth will continue to provide adequate access to the yard and sufficient space for exterior maintenance.

The purpose of the minimum parking requirement provision is to ensure that a development is able to provide sufficient parking spaces for the anticipated number of employees and visitors/clients that will frequent the site. Parking ratios established by the zoning by-law provide parking requirements for a range of uses, but are unable to differentiate between uses that may not require as many spaces as needed due to the nature and location of the use/operation. Based on the area of the proposed building, the number of required parking spaces would be 46 parking spaces, including 2 barrier free spaces. The applicant has advised that the proposed business will only have a limited number of employees on site at any given time (approximately 3 or 4). Accordingly, the proposed development which will provide 18 parking spaces including one barrier free space adequately accommodate the anticipated employees and customers visiting the site. All other zoning requirements established by the CH-3 zone will be complied with.

Based on all of the foregoing, it is my opinion that the intent of the By-law will be maintained.

## **Is the variance desirable for the appropriate development or use of the land?**

Administration has reviewed the site plan depicting the proposed development and does not have any concerns with the layout or the related on-site works. The proposed variance will accommodate an appropriate level of intensification on the subject property and provide

additional employment opportunities in the Oldcastle Business Park while maintaining the character of the existing built form in the surrounding area.

Based on the foregoing, it is my opinion that the proposed relief will result in development that represents an appropriate use of the land.

### **Is the variance requested minor?**

The proposed development on the property will result in a reasonable and acceptable level of development that will result in employment opportunities without compromising the objectives of the Official Plan policies and zoning provisions. Further, no undue adverse impact is anticipated as a result of the proposed new building. It is therefore my opinion that the requested relief is minor in nature.

### **Administration/Agency Comments**

#### **1. Engineering**

- Town Engineering has no comments with regard to the requested minor variances.
- The owner's engineering consultant has been made aware that site servicing/grading drawings and detailed stormwater management reports (addressing quantity and quality) will need to be submitted for the proposed future development on this property as part of the building permit process which must be reviewed/approved by the Town Engineer prior to the issuance of building permits.
- The owner's engineering consultant is aware that the Town of Tecumseh recently completed a Stormwater Master Plan for the Oldcastle Hamlet which includes the subject property. The Stormwater Master Plan includes a holistic capacity review of the current storm sewer systems and drains in this area with consideration of both current and future development. The owner's consultant is also aware that development at this site is subject to review and approval from the Ministry of Transportation Ontario (MTO). The stormwater requirements will ultimately need to satisfy the Town of Tecumseh, MTO and related approval agencies.

#### **2. Building Department**

- No comments

#### **3. Fire Department**

- No comments

#### **4. Essex Region Conservation Authority**

- The site is not located within a regulated area that is under the jurisdiction of the ERCA (Section 28 of the Conservation Authorities Act). As a result, a permit is not

required from ERCA for issues related to Section 28 of the Conservation Authorities Act, Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservations Authorities Act, (Ontario Regulation No. 158/06). e received at the time of the writing of this Report.

- The ERCA wishes to be circulated this proposal, at the time of site plan control and will defer further comment on stormwater management issues, until the Authority has had a chance to review the specific details of the proposal, through the site plan control process.
- No objections to the application for minor variance at this time. If this development is subject to site plan control, please circulate the ERCA, the site plan application for further comment on Stormwater Management, at the appropriate time.

#### 5. **Bell Canada**

- No concerns

### **Public Comments**

No public comments were received as of time of the writing of this report.

### **Summary/Recommendation**

In the absence of additional public input or the introduction of other pertinent issues, it is the opinion of the writer that the application satisfies the four tests of the *Planning Act*. The intent of the Official Plan has been met, the intent of the Zoning By-law has been met, the variance will result in appropriate development, the variance will not create undue adverse impact on adjacent properties and the variances are minor in nature.

The public hearing, in accordance with the requirements of the *Planning Act*, will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and other interested stakeholders/agencies. It is important that the concerns and comments of these stakeholders be taken into consideration as part of the full evaluation of the application.

1. Based on the foregoing, the writer supports the minor variance application and believes it to be based on sound planning principles.

### **Recommendation Conditions**

None

**Application: Minor Variance Applications A-12-22**

**Applicant: Faiz Alharbi and Hanan Airwili**

**Location of Property: 3267 South Talbot Road**

The purpose of the Application is to request relief from subsection 15.1.2 c) of Zoning By-law 85-18 which permits the construction of an additional dwelling for resident staff as supplementary housing to an agricultural use in addition to an existing dwelling on a farm. The applicant is seeking relief to allow the existing dwelling on the 4.4 hectare subject property to act as the supplementary housing for resident staff associated with an existing equestrian facility and a new dwelling to be constructed as the primary dwelling to be occupied by the owner.

The lands are designated Agricultural in the Tecumseh Official Plan and zoned Agricultural Zone (A) in the Sandwich South Zoning By-law 85-18.



In accordance with the Planning Act, the Committee must be satisfied that the four tests set out in subsection 45(1) are met. The following comments are offered with respect to the subject application:

## **Is the intent of the Official Plan maintained?**

The subject property is designated Agricultural in the Official Plan. The Agricultural designation permits single unit dwellings, along with supplemental dwellings intended to be used as housing for farm help. Specifically, subsection 4.1.2 x) states:

- “x) an additional residence on a lot for the purposes of housing farm help may be allowed once the need for such housing has been adequately demonstrated in terms of the following: the farm helps' working activity is primarily, but not necessarily exclusively, devoted to the farm operation; and the farm operation requires the help to be accommodated close to the farm. The farm help residence should use the same access as the primary single unit dwelling where such dwelling exists, be located within the cluster of farm buildings and will not be eligible for severance in the future.”

The applicant has provided correspondence outlining the existing agricultural use (horse riding facility) that operates from the property and the need for permanent on-site farm help. Based on the foregoing, it is my opinion that, the proposed relief meets the intent of the Official Plan.

## **Is the intent of the Zoning By-law maintained?**

The subject property is zoned Agricultural Zone (A) in By-law 85-18.

The purpose of subsection 15.1.2 c) of Zoning By-law 85-18 is to permit the construction of an additional dwelling for resident staff as supplementary housing to an agricultural use in addition to an existing dwelling on a farm. The reason a variance is required is due to the fact that the by-law contemplates the dwelling to be used for farm help be the “additional/new house” and not the existing dwelling that occupies the farm. The applicant is asking to permit the reverse scenario (i.e. the existing house will be used for resident staff, and the new house being proposed on the property will be for the applicant/owner as their primary residence). The end result will still be two dwellings on the property.

In addition, the clause that permits an additional dwelling for resident staff also contemplates it occurring on an agricultural lot that meets the minimum lot area of 19.0 hectares (46.94 acres) established for farm lots in the A Zone. The existing agricultural lot is 4.4 hectares in area (10.84 acres). Although the existing property is below the minimum lot area, it is still appropriately sized to facilitate the existing permitted agricultural use (horse riding facility).

Given the foregoing, it is my opinion that the intent of the By-law will be maintained.

## **Is the variance desirable for the appropriate development or use of the land?**

Provided the Committee is satisfied that the applicant has adequately demonstrated the need for on-site farm help for the horse riding facility, it is my opinion that allowing for the current

dwelling to be used to house the farm help and a new principle dwelling constructed will result in the appropriate use of the land.

### **Is the variance requested minor?**

No undue adverse impact on abutting properties is anticipated as a result of the proposed variance. However, input from the neighbouring property owners, will be of assistance in assessing the application. Subject to hearing from the neighbouring property owners, it is my opinion that the proposed variance is minor in nature.

### **Administration/Agency Comments**

1. **Engineering**

- No concerns

2. **Building Department**

- No comments

3. **Fire Services**

- No comments

4. **Essex Region Conservation Authority**

- The site is not located within a regulated area that is under the jurisdiction of the ERCA (Section 28 of the Conservation Authorities Act). As a result, a permit is not required from ERCA for issues related to Section 28 of the Conservation Authorities Act, Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservations Authorities Act, (Ontario Regulation No. 158/06).
- No objection to the requested minor variance at this time

5. **Bell Canada**

- No concerns

### **Public Comments**

No public comments were received as of time of the writing of this report.

### **Summary/Recommendation**

In the absence of additional public input or the introduction of other pertinent issues, it is the opinion of the writer that the application satisfies the four tests of the *Planning Act*. The intent

of the Official Plan has been met, the intent of the Zoning By-law has been met, the variance will result in appropriate development, the variance will not create undue adverse impact on adjacent properties and the variance is minor in nature.

The public hearing, in accordance with the requirements of the *Planning Act*, will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and other interested stakeholders/agencies. It is important that the concerns and comments of these stakeholders be taken into consideration as part of the full evaluation of the application.

Based on the foregoing, the writer supports the minor variance application and believes it to be based on sound planning principles.

### **Recommendation Conditions**

None.