



**The Corporation of the
Town of Tecumseh**

Planning Report

To: Committee of Adjustment
From: Chad Jeffery, MA, MCIP, RPP
Hearing Date: February 24, 2025
Subject: **Severance Application B-01-25**

Please note that this Planning Report was prepared as of February 21, 2025. 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 February 24, 2025 as the normal practice.

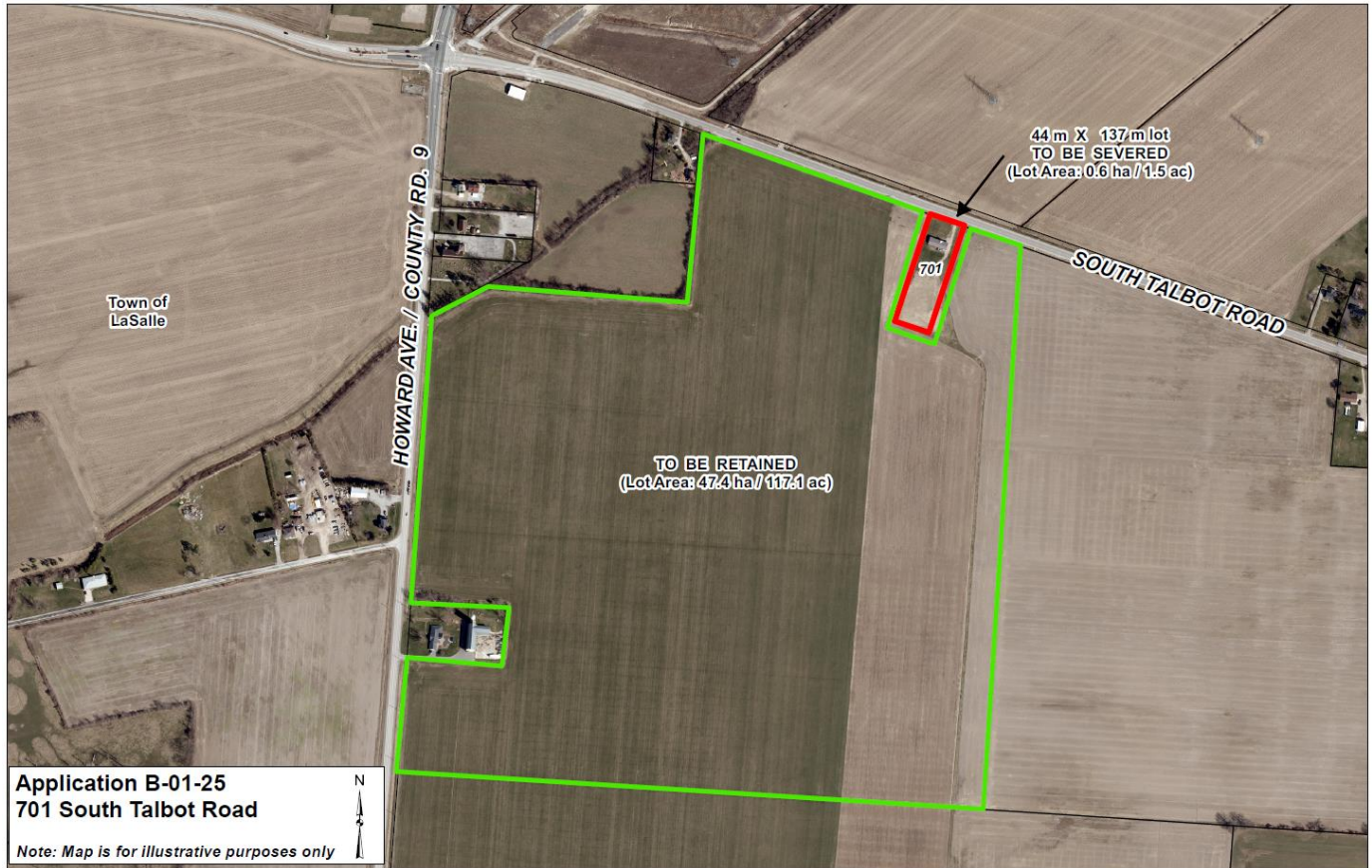
Application: **Severance Application B-01-25**
Applicant: Damesview Farms Inc.
Location of Property: 701 South Talbot Road

The purpose of the Application is to request consent to sever a surplus dwelling lot having a frontage of 44.19 metres (145.0 feet), a depth of 137.16 metres (450.0 feet) and a lot area of 0.61 hectares (1.5 acres) outlined in red on the attached sketch. The proposed severed lot contains one residential dwelling.

The retained farm parcel, outlined in green on the attached sketch, has an approximate lot area of 47.4 hectares (117.1 acres). As a condition of consent, a Zoning By-law amendment will be required to:

- i) prohibit a residential dwelling on the retained lands, in accordance with the Provincial Planning Statement; and
- ii) establish a maximum lot area of 0.61 hectares/1.5 acres for the severed lot.

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



Provincial Planning Statement

The *Planning Act* establishes that the Committee, when making decisions that affect a planning matter, “shall be consistent with” the 2024 Provincial Planning Statement (“PPS”) issued under the *Planning Act*. The PPS establishes the following land division policy for surplus dwelling severances on Agricultural lands:

“4.3.3 Lot Creation and Lot Adjustments

5. Lot creation in prime agricultural areas is discouraged and may only be permitted in accordance with provincial guidance for:
 - ...
 - c) one new residential lot per farm consolidation for a residence surplus to an agricultural operation, 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 dwellings and additional residential units are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new dwellings or additional residential units are permitted on the remnant

parcel may be recommended by the Province, or based on municipal approaches that achieve the same objective.”

The applicant has advised that the size of the proposed surplus dwelling lot is dictated by the fact that the land comprising the proposed surplus dwelling lot has historically been used in conjunction with the existing residential dwelling (and not for agricultural purposes) and the proposed lot depth aligns the current drainage pattern of the farmed area that would surround the surplus dwelling lot. Accordingly, no farmland is being taken out of production.

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

The subject lands are designated Agricultural 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 (1.24 acres), except where natural or man-made features or servicing requirements dictate otherwise. As noted above, The proposed surplus dwelling lot, at 0.61 hectares (1.5 acres), is dictated by the fact that the land comprising the proposed surplus dwelling lot has historically been used in conjunction with the existing residential dwelling (and not for agricultural purposes) and the proposed lot depth aligns the current drainage pattern of the farmed area that would surround the surplus dwelling lot. Accordingly, no farmland is being taken out of production.

As with the County Official Plan, the Tecumseh Official Plan, under subsection 6.4.1 ii) c., 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. Further, subsection 6.4 iv) of the consent policies states:

- “ iv) 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.”

Accordingly, if the Committee decides to grant the severance, it should also be made conditional to the requisite rezoning prohibiting a dwelling on the retained farm parcel and

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 both the severed and retained farm parcel being rezoned into site-specific "Agricultural Zone (A)" Zone that would establish a maximum lot area of 0.61 hectares (1.5 acres) for the severed lot and prohibit a residential dwelling on the retained farm lot.

Administration/Agency Comments

1. Public Works and Engineering Services

- The Applicant should be made aware that the subject properties are within the watershed of existing municipal drainage systems and may be liable for the costs of assessments relating to future works or improvement or maintenance in accordance with the provisions of the Ontario Drainage Act, RSO. 1990. Specifically, the subject farm property is within the watershed of the Dickson Drain, 3rd Concession Drain (LaSalle), East Branch of the Cahill (LaSalle), and the Canard River (LaSalle). There is currently an ongoing improvement project for the 3rd Concession Drian where a report was adopted but construction has not been commenced (anticipated soon).
- The Applicant will be required to 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.
- The parcel to be retained and the parcel to be severed are to be serviced with separate entrances. However, it does appear that access to the retained parcel will not be affected by the proposed severance; access to the retained farm parcel is currently being provided over from Howard Avenue, while access to the severed homestead is provided from South Talbot Road. As such, it is our view that a new access will not be required to accommodate this application. However, should this not be the case, or should the existing access require modification or relocation to better accommodate the parcel within an existing Municipal Drain, an engineering report in accordance with Ontario Drainage Act, RSO. 1990, would be required and the associated costs of same would be borne solely by the Applicant. Should new access or accesses be required, the Applicant, developer or future builder, shall be required to obtain approvals and permits from the Town of Tecumseh and/or the County of Essex to install new access driveways in accordance with all applicable Town and/or County standards prior to the commencement of driveway construction within the Town's right-of-way.
- The cost of all servicing and access requirements will be at the expense of the applicant.

2. **Building Department**

- That the Applicant be required to provide and implement a drainage and grading plan 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 parcel to be retained and the parcel to be severed are to be serviced with separate water supplies and septic systems to the satisfaction of the Town of Tecumseh Public Works, Water and Building Departments prior to this severance being finalized; and
- That the Owner determine if there are any existing farm drainage tiles/systems extending through the parcel to be severed and, if existing farm drainage tiles/systems are found, that the Owner redirect the tiles/systems around the parcel to be severed to the satisfaction of the Chief Building Official prior to the severance being finalized.

3. **Fire Services**

- No concerns with application.

4. **Essex Region Conservation Authority**

- No objection to the application.

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

CONDITIONS – this decision has been made subject to the following conditions:

1. That at the time the conveyance is prepared for certification, a reference plan prepared by an Ontario Land Surveyor in digital format (.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;

2. 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;
3. That the appropriate documents for the conveyance be prepared in duplicate (2) suitable for registration, all copies to have original signatures, with one copy to remain as a record with the Town;
4. That any cost in excess of the \$1400.00 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;
5. That the parcel to be retained be successfully rezoned to prohibit a residential dwelling prior to final consent;
6. The severed land to be conveyed is transferred to someone other than the applicant, the applicant's spouse, a partnership, or a corporation of which the applicant is a principle owner;
7. That the Owner determine if there are any existing farm drainage tiles/systems extending through the parcel to be severed and, if existing farm drainage tiles/systems are found, that the Owner redirect the tiles/systems around the parcel to be severed to the satisfaction of the Chief Building Official prior to the severance being finalized;
8. 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*;
9. That the Applicant be required to provide and implement a drainage and grading plan 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 parcel to be retained and the parcel to be severed be serviced with separate entrances to the satisfaction of the Town's Engineer;
11. That the approval of a Zoning By-law amendment be required in order to:
 - a. prohibit a residential dwelling on the retained farm parcel, in accordance with the Provincial Planning Statement; and
 - b. establish a maximum lot area of 0.61 hectares/1.5 acres for the severed surplus dwelling lot;

12. That the parcel to be retained and the parcel to be severed are to be serviced with separate water supplies and septic systems to the satisfaction of the Town of Tecumseh Public Works, Water and Building Departments prior to this severance being finalized; and
13. That the above conditions be fulfilled on or before February 28, 2027 prior to this severance being finalized.