



THE CORPORATION OF THE TOWN OF AMHERSTBURG

OFFICE OF DEVELOPMENT SERVICES

MISSION STATEMENT: *Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.*

Author's Name: Sarah French	Report Date: January 27, 2023
Author's Phone: 519 736-5408 ext. 2145	Date to Council: February 13, 2023
Author's E-mail: sfrench@amherstburg.ca	Resolution #:

To: Mayor and Members of Town Council

Subject: Official Plan Amendment No. 21 for 8917 Concession 8

1. **RECOMMENDATION:**

It is recommended that:

1. Official Plan Amendment No. 21, attached to this report as Appendix "A", **BE ADOPTED** by Council and forwarded to the County of Essex.

2. **BACKGROUND:**

The Town is in receipt of an Official Plan Amendment from Raffaele and Gina Meo to amend the Official Plan for lands known as 8917 Concession 8, Amherstburg (refer to Figure 1).

This Official Plan Amendment application affects approximately 20.45 hectares of land located on the east side of Concession 8 between North Townline Road and North Sideroad.

This Official Plan Amendment, if approved, will amend the existing Official Plan designation on the subject lands from an "Agricultural" to an "Agricultural Special Policy Area 21". The amendment will allow for a habitable farm house built in 1997 to be severed from the farm lot through the surplus dwelling as a result of a farm consolidation process.

A Statutory Public Meeting under the Planning Act was held on January 9, 2023 at which comments were received from members of Council. Following the January 9, 2023 meeting, Administration worked with the applicants to address the comments and bring forward this report for Council's consideration.

3. **DISCUSSION:**

The Official Plan currently designates the subject lands as Agricultural.

The Official Plan Agricultural policies permit the severance of a habitable farm house that was existing as of January 1, 1978, through the surplus dwelling severance process. The applicants are requesting that the Official Plan Amendment amend the date in the Official Plan to allow a house built prior to 1997 to be severed from the property through the surplus dwelling severance policy. The house on the property was built in 1994, however the applicants have requested the use of 1997 as the date in the policy in case there are any discrepancies with when the house was built.

The Town's Official Plan contains the 1978 policy due to policies that were provided in the 1996 Provincial Policy Statement (PPS) requiring that surplus dwelling severances only be permitted for houses built prior to 1978. The policy was removed from the PPS in the 2005 version of the PPS. Table 1 below provides a review of the Essex County municipalities' policies regarding the age of a house for a surplus dwelling severance.

Table 1: Official Plan Policy Review of Essex County Municipalities Regarding the Minimum Age of a Surplus Dwelling Severance Farm House

Municipality	Official Plan Policy
Town of Essex	The Official Plan provides no minimum age for the farm house, however it requires that the house must be habitable.
Town of Kingsville	The Official Plan requires that the farm house must be in existence prior to the date of the passing of the Plan (2011).
Municipality of Lakeshore	The Official Plan provides no minimum age for the farm house.
Town of LaSalle	The Official Plan requires that the farm house must be in existence prior to the date of the passing of the Plan (2018).
Municipality of Leamington	The Official Plan requires that the farm house must be in existence prior to the date of the passing of the Plan (2007). Additionally, the Official Plan requires that the owner has owned or has been part owner of both farms for a minimum period of one year prior to the date of the application.
Town of Tecumseh	The Official Plan provides no minimum age for the farm house, however it requires that the house must be habitable.

Raffaele and Gina Meo purchased the farm property in 2021 in order to grow their farming operation. They currently farm approximately 87 hectares (216 acres) of farm land in Essex County. It is typical for farmers to purchase large plots of land that have habitable farm houses on the property. Often farmers do not need the farm houses and it is not financially feasible for farmers to keep the houses or to rent them out. Surplus dwelling

severance policies exist to help farmers sell houses that are not required as part of their farming operation.

Provincial Policy Statement

The Provincial Policy Statement was issued under Section 3 of the Planning Act and came into effect on May 1, 2020. The Provincial Policy Statement provides policy direction on matters of provincial interest related to land use planning and development. As a key part of Ontario's policy-led planning system, the Provincial Policy Statement sets the policy foundation for regulating the development and use of land. It also supports the provincial goal to enhance the quality of life for all Ontarians.

The Provincial Policy Statement provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. The Provincial Policy Statement supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.

When reviewing a planning application to determine if the requested Official Plan Amendment (OPA) makes sound planning, it is imperative that the proposed amendment is consistent with the Provincial Policy Statements (PPS).

The Provincial Policy Statement provides policy direction for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. The PPS recognizes that the wise management of development may involve directing, promoting, or sustaining growth. Land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns.

The following policy excerpts from the PPS are particularly applicable to the subject applications:

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:

- a) agricultural uses, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations;*
- b) agriculture-related uses, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services;*
- c) a residence surplus to a farming operation as a result of farm consolidation, provided that:*
 - a. the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and*
 - b. 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; and*

- d) *infrastructure, where the facility or corridor cannot be accommodated through the use of easements or rights-of-way.*

2.3.4.2 Lot adjustments in prime agricultural areas may be permitted for legal or technical reasons.

2.3.4.3 The creation of new residential lots in prime agricultural areas shall not be permitted, except in accordance with policy 2.3.4.1(c).

County of Essex Official Plan

The County of Essex Official Plan was adopted on February 19, 2014 and was approved by the province on April 28, 2015. All lower tier Official Plans or amendments must comply with the policies of the upper tier Official Plan (County). The applicable County policies that should be considered when assessing the merits of the subject Official Plan Amendment include:

Section 3.3.3.4 Lot Creation under Specific Agricultural Policies set out the following policies:

3.3.3.4 Lot Creation

The County shall undertake an Agricultural Lot Size Study to determine the minimum parcel size for all types of agricultural lots, including, but not limited to, new lots for agricultural uses, specialty crop areas, and agriculture-related uses. Until such time as this Study is approved by County Council and implemented by amendment to this Plan, existing agricultural lot creation policies at the local level shall remain in effect.

However, lot creation in the “Agricultural” designation is discouraged and will only be permitted in accordance with Provincial Policy, local Official Plan policies and the following:

- a) *Lot creation to accommodate an agricultural use shall only be considered where the lots proposed are of a size appropriate for the type of agricultural uses common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations. These agricultural lots shall also comply with the Minimum Distance Separation Formulae.*
- b) *Lot creation to accommodate an agriculture-related use shall only be considered where the use is compatible with surrounding agricultural operations and the new lot is limited to a minimum size needed to accommodate the use and appropriate sewage and water services. These agriculture-related lots shall also comply with the Minimum Distance Separation Formulae.*
- c) *Lot creation to accommodate a habitable residence surplus to a farming operation as a result of farm consolidation is permitted subject to the local Zoning By-law being amended, to prohibit new residential dwellings on the vacant remnant parcel of farmland created by the severance.*
- a) *In order to maintain County-wide consistency in the implementation of this policy, farm consolidation will be interpreted to permit both contiguous and non-contiguous farm parcel consolidations.*
- b) *Local municipalities may establish a minimum lot size for the remnant farm parcel in accordance with this Policy.*
- c) *Lot creation to permit new infrastructure uses is permitted where the facility or corridor cannot be accommodated through the use of easements or rights-of-way.*

- d) *Lot adjustments for legal or technical reasons, such as for easements, corrections of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot are also permitted.*
- e) *In order to maintain County-wide consistency in the implementation of this policy, lot line adjustments will be interpreted to prohibit the creation of new residential or non-farm parcels.*

Town of Amherstburg Official Plan

The Official Plan currently designates the subject lands as Agricultural (refer to Figure 2). Section 3.2 of the Official Plan provides the policies for Agricultural Land Uses. Section 3.2 states:

Good agricultural lands and viable farming operations are non-renewable resources essential to the economic well being of Amherstburg, Essex County and the Province of Ontario. These non-renewable resources need to be protected, preserved and enhanced to ensure that productive agricultural land continues to exist and is not undermined by non-agricultural activities. The Agricultural policies provide a framework for the protection and maintenance of the agricultural industry not only as a producer of food and other products but also as a foundation for a rural way of life.

The policies will ensure that good agricultural land is preserved for agricultural use through the protection of the land base by directing land uses that are not related to or compatible with agriculture away from the agricultural area. The policies will also ensure that the minimum agricultural operation unit size or farm parcel size is maintained equal to the typical agricultural operation while also permitting farming operations to adjust to changing economic and technological conditions. In the Agricultural area of Amherstburg, agriculture is the primary long term land use. The main purpose of the designation is to provide a secure land base for agricultural activities and to support the concept of “right-to-farm”.

Section 3.2.2.14 of the Official Plan sets the policies for surplus dwelling severances. The policies state:

(14) Where a habitable farm house existing as of January 1, 1978 is rendered surplus as a result of farm consolidation (the acquisition of additional farm parcels to be operated as one farm operation), a consent may be considered to sever the surplus dwelling from the farm unit, provided that, in addition to the general consent policies of this Plan, all of the following conditions are met:

a) the lot severed for the surplus dwelling is large enough to accommodate the use and on-site servicing (i.e. subsurface sewage disposal and well) while ensuring that as little acreage as possible is taken out of productive agricultural land and shall generally be less than one (1) hectare in size;

b) the Minimum Distance Separation Formulae can be met with the formulae applied as if the property severed for the surplus farm dwelling was zoned or designated as a residential lot; and

As a condition of the consent, the remnant parcel shall be rezoned under the Comprehensive Zoning By-law to ensure that no new dwelling units shall be permitted on it and a condition stating that ‘no additional dwelling units shall be permitted on the remnant parcel’ shall be registered on title. (Modification #27)

6.7 PLANNING IMPACT ANALYSIS

It is a policy of this Plan that a Planning Impact Analysis will be used to evaluate applications for an Official Plan Amendment and, depending on the magnitude of the development, a Zoning By-law Amendment, to determine the appropriateness of the proposed change and to identify what measures are needed to reduce any adverse impacts on surrounding land uses. The Planning Impact Analysis will supplement the consideration of compliance with the permitted use, location, scale of development, and other criteria applicable to the relevant land use designation. Proposals for changes in the use of land which require the application of a Planning Impact Analysis will be evaluated based on:

(1) Compatibility of proposed uses with surrounding land uses, and the likely impact of the proposed development on present and future land uses in the area on the character and stability of the surrounding neighbourhood.

Due to the minor nature of the amendment, the applicant was not required to provide a Planning Justification Report or Planning Rationale Report. The intent of this report to Council is to provide the justification required for the proposed Official Plan Amendment.

The proposed Official Plan Amendment is consistent with the policies in the Provincial Policy Statement, 2020, specifically the policies regarding residences that are surplus to farming operations. The proposed Official Plan Amendment is in conformity with the County of Essex Official Plan, specifically the policies regarding residences that are surplus to farming operations. It can be noted that there are no other municipalities within the County of Essex that require surplus houses to be existing as of January 1, 1978. The Municipality of Leamington provides the most restrictive policies, requiring that the farm house be built prior to the date of the passing of the plan (2007). The Municipality of Leamington's policies are the most restrictive of the County of Essex municipalities, other than Amherstburg, simply due to the age of their Official Plan.

The proposed Official Plan Amendment is in conformity with all other policies in the Town of Amherstburg Official Plan. If passed, the applicants will be required to go through the surplus dwelling severance process. The process includes a consent and minor variance application to be considered by the Committee of Adjustment. If the Committee of Adjustment approve the applications, the applicants will also be required to apply for a Zoning By-law Amendment to re-zone the farmland to restrict any future dwellings to be permitted on the remnant parcel. Additionally, the applicants will be required to register a condition on title stating that 'no additional dwelling units shall be permitted on the remnant parcel'.

This application has been circulated to several agencies, surrounding properties and internal municipal departments. Attached is a copy of all comments that have been received to date.

At the Statutory Public Meeting held January 9, 2023, minimal concerns were raised regarding the proposed Official Plan Amendment. Council questioned whether the proposed amendment should be addressed through a Town-wide Official Plan Amendment. Administration indicated that the Official Plan reviewed process is planned for 2023 and will address various changes required to the Official Plan in a holistic

manner. It is preferred by Administration that the majority of Town-wide Official Plan Amendments be researched and presented through the review process.

4. RISK ANALYSIS:

The recommendation presents little to no risk to the municipality.

5. FINANCIAL MATTERS:

Costs associated with the application and planning processes are the responsibility of the applicant. Should the decision be appealed to the Ontario Land Tribunal then the Town will incur costs.

6. CONSULTATIONS:

The Notice of Public Meeting was published in the local newspaper and circulated to the required agencies, property owners and municipal departments in accordance with the requirements of the Planning Act, R.S.O. 1990, c.P. 13 and associated regulations.

No further consultation is required.

7. CONCLUSION:

It is the opinion of administration that the Official Plan Amendment allows for the appropriate development of the subject lands, is consistent with the policies of the Provincial Policy Statement, 2020, and conforms with the policies of the County of Essex Official Plan and the Town of Amherstburg Official Plan. The applicant will be required to submit a consent and minor variance application to the Committee of Adjustment to receive approval for the future proposed surplus dwelling severance.

Administration recommends that Official Plan Amendment No. 21 be adopted by Council and forwarded to the County of Essex for approval.



Sarah French
Planner

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DEPARTMENTS/OTHERS CONSULTED:

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Report Approval Details

Document Title:	Official Plan Amendment No. 21 for 8917 Concession 8.docx
Attachments:	<ul style="list-style-type: none">- OPA 21 Aerials.pdf- OPA 21 8917 Concession 8 Site Photos.pdf- OPA 21 House pictures.pdf- OPA 21 Buffer map and list.pdf- OPA 21- Summary of Comments Recieved.pdf- 2023-007 DRAFT OPA 8917 Conc 8 2.pdf
Final Approval Date:	Feb 8, 2023

This report and all of its attachments were approved and signed as outlined below:

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