



Report to Council

Department: Planning
Date: July 14, 2014
Prepared by: Jeff Watson, Policy Planner
Submitted by: Chris Nepszy, Director of Infrastructure and Development
Report Number: Planning 2014-31
Subject: Farm Lot Severances
Number of Pages: 4

Recommendation(s)/Conclusion(s)

That the draft changes to the Official Plan and Zoning By-law 1037 respecting farm lot severances and surplus dwellings be received and tabled pending the holding of a statutory public meeting in August.

Reason for the Report

To introduce new provisions regarding farm lot severances in response to recent amendments to the County of Essex Official Plan.

Comments

Farm Lot Severances

The Provincial Policy Statement (PPS) sets strict rules for farm lot severances in order to keep farm operations viable and to restrict or prevent the creation of residential lots in agricultural areas. The County and Municipal Official Plans must adhere to these policies.

The Town of Essex Official Plan (TOP) reflects these Provincial mandates, but in some respects it is a rather strict interpretation. Our policies were developed in consultation with the Committee of Adjustment of the time and approved by them. In turn, the Committee has also strictly followed the provisions of our OP in the granting of farm lot severances and the creation of surplus dwelling lots.

The new County of Essex Official Plan (COP), which was recently accepted by the Ministry of Municipal Affairs and Housing, has more liberal provisions regarding who is entitled to acquire farm lands.

In our OP, new residential development is limited to existing vacant lots. Farms with existing dwellings are recognized. The PPS permits the severance of a surplus dwelling, namely, a dwelling which is acquired as part of farm lot consolidation. The new owner does not want the dwelling, as acquisition of the farmed lands is the goal. Since a surplus dwelling is an existing dwelling, no new residential development is created by the severance and, therefore, the severance is not in conflict with the provisions of the PPS.

Under Section 6.5, of the Town of Essex OP, “Consents in Areas Designated Agricultural”, a farmed lot having a dwelling on it can only be acquired by the abutting farmer, if new owner wishes to sever off the surplus dwelling. This is more restrictive than the County OP, which permits farm lot acquisition by persons who do not have operating farms that abut the subject property.

Our Committee of Adjustment is not empowered to grant such severances. Planning has received several enquiries from farmers, who wish to acquire more lands to expand their farm operations, but they are not abutting neighbours. But this is permitted under the new County OP and, in fact, other municipalities already permit this.

The caveat for them is that, when a surplus dwelling is to be severed from the farm operation, the newly acquired now vacant farmed lands must be rezoned to preclude the construction of a new dwelling (to satisfy the PPS). This means site specific rezoning of the affected property and an onus on Council, who was not party to the Committee’s review and decision,

to approve the rezoning, a third party obligation. This was not presently an issue with the Town of Essex, as the lot could only be acquired by an abutting farmer, who likely already has dwelling on his her property. In order to prevent this imposition on Council, the zoning by-law can be amended to provide that any lot in an agricultural zone created after the adoption of new OP provisions for farm lot acquisition.

Farm Lot Size

Under the Town of Essex Official Plan and zoning by-law, the minimum farm lot size is 40 hectares (100 acres). This reflects the predominately field crop farm operations in our agricultural areas. In other municipalities the minimum farm lot size ranges from a high of 40 hectares, a middle (e.g. Lakeshore) of 20 hectares (50 acres) and a low (Leamington) of 10 hectares (25 acres) to reflect the large number of specialty crop operations.

The new COP maintains the status quo, pending the retention of a consultant to properly assess farm sizes and their viability throughout the County. Their recommendations, in turn, may allow us to reconsider the appropriate minimum farm lot size. To date no request for proposals has been released for this project by the County.

The Committee of Adjustment is not obliged to maintain minimum farm lot size of 40 hectares. Rather they must be satisfied that the division will not result in the loss of farm viability and operating efficiency. Consequently, the Committee has the flexibility to grant severances to create viable smaller farm parcels, provided it is also satisfied that the farm lot to be retained is also viable. In this light, Planning would rather defer any potential changes to minimum farm lot size in the OP and Zoning By-law until the conclusions of the County-wide study are known.

Proposed Amendments to the Official Plan and Zoning By-law 1037

In the Official Plan, under 6.5, Division of Farm Lots, a) Surplus Dwellings, delete the first paragraph-

“Where a lot has been acquired for consolidation with an **abutting farm** and there is a surplus dwelling on the acquired lot, a consent may be granted to permit a farmer to sever the dwelling and a surrounding portion of the acquired lot, if the dwelling is considered to be surplus to the needs of the farm operation” ...

and substitute

“ Where a lot has been acquired for consolidation with **another farm operation** and there is a dwelling on the acquired lot, a consent may be granted to permit a farmer to sever the dwelling and a surrounding portion of the acquired lot, if the dwelling is considered to be surplus to the needs of the farm operation”...

In Zoning By-law 1037, add a provision in Subsections 1 and 2 of Section 13, A1.1 and A1.2 Zoning Districts to state that a dwelling is not permitted on a lot created by consent after xxxx (the date of the passage of the amending zoning by-law). Note: This would not apply to a lot of 40 hectares or more in area as that would satisfy the minimum lot area requirement of the zoning by-law.

Financial Impact

No direct impact on municipal expenditures.

Link to Strategic Priorities

Enhances economic development activities.

Reviewed by: Russell Philips, Chief Administrative Officer - concurs

Reviewed by: Chris Nepszy, Director of Infrastructure and Development - concurs

Reviewed by: Heather (Ross) Jablonski, Town Planner - concurs