



**ELGIN COUNTY LAND DIVISION COMMITTEE**

**Meeting Minutes – April 28, 2021**

*County Administration Building, St. Thomas, Ontario and electronically*

**Present:** John R. “Ian” Fleck, Chairman, Dugald Aldred, Rosemary Kennedy, John Seldon, Dennis O’Grady, Jack Van Kasteren, Nancy Pasato, Acting Secretary-Treasurer/Manager of Planning, and Dawn Wittland-Graham, Administrative Assistant.

**Regrets:** John Andrews

**Call to Order:**

At 9:00am, Chair John R “Ian” Fleck called the meeting to order. Due to the Province of Ontario Emergency Declaration for the COVID-19 pandemic, this meeting is being held by video conferencing and in person in an effort to follow the rules of “physical distancing”.

**DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF**

- None declared

**Minutes:**

**Moved by:** Rosemary Kennedy

**Seconded by:** Dennis O’Grady

**That the minutes of the meeting held March 24, 2021 be adopted, with noted corrections.**

<b>Recorded Vote</b>	<b>Yes</b>	<b>No</b>
John Andrews (Southwold)		No
John “Ian” Fleck - Chair (Dutton/Dunwich)	Yes	
Dennis O’Grady (Central Elgin)	Yes	
Rosemary Kennedy (Malahide)	Yes	
John Seldon (Bayham)	Yes	
Jack Van Kasteren (Aylmer)		No

Dugald Aldred (West Elgin)

Yes

- Carried

### **Application Signs:**

Land Division Committee members confirmed that all signs for applications to be heard today were posted at the time of site inspection.

### **Items for Consideration:**

Severance applications and their completeness

### **Committee Comments:**

Drawings need to be better

Completeness during initial application

More notice to abutting neighbours? Used to be a requirement?

Liability if LDC decides to refuse due to lack of information?

### **Application E 14-21**

Margaret Berry

377 Warren St

Municipality of Central Elgin

Agent: Matt Campbell

*The applicants propose to sever a parcel with a frontage of 7.9 metres (25.91 feet) along Warren St by an irregular depth and an area of 1.238 hectares (3.06 acres) proposed for future residential use. The owners are retaining 0.213 hectares (0.53 acres) proposed to remain in residential use. The applicants also propose to create two easements. The first easement, having a width of 3.0 metres (9.84 feet) and a depth of 119m metres (390.4 feet), is proposed to modify an existing gas easement in favour of Enbridge/Union Gas. The second easement, having a width/frontage of 8.0 metres (26.2 feet) on Warren Street by a depth of 17 metres (55.8 feet), is proposed to provide a right of way in favour of Margaret Berry/377 Warren Street.*

**Request that the applicant's agents and any interested parties who wish to speak to this application please introduce themselves to the Committee.**

Agent: Matt Campbell was present electronically

Developer: Mario Garcia was present electronically

Written submissions were received from the following:

1. **Municipality of Central Elgin** - Administration recommends that the request for severance be approved, with conditions.
2. **Brian Lima, Director Engineering Services** – The Engineering Department supports this application, with conditions.
3. **Nancy Pasato, Manager of Planning** – The proposed severance application meets the policies of the County Official Plan, and the County of Elgin supports this application for consent.

*A copy of the comment package which includes all correspondence received is available upon request.*

**Moved by: Dennis O’Grady**

**Seconded by: Rosemary Kennedy**

**That severance application E 14-21 be granted subject to the following conditions:**

It is recommended that conditions from the Municipality of Central Elgin be included as conditions for consent:

1. Approval of a Zoning By-Law Amendment to permit a townhouse development on the severed lot and to bring the existing house and accessory buildings on the retained lot into conformity with the Village of Port Stanley Zoning By-Law No. 1507, as amended;
2. The applicant enters into an agreement with the Municipality of Central Elgin to address administrative, technical and financial matters relative to the development of the subject lands;
3. The payment of cash-in-lieu of the dedication of 5% of the land for parkland purposes;
4. A copy of the Reference Plan be provided to the Municipality of Central Elgin and;
5. A drainage reassessment be done, if necessary, at the owner’s expense

Staff support this application for consent, and recommend the following conditions:

1. That the owner dedicate lands along the frontage of the severed and retained lots/parcels up to 15m from the centerline of construction of Warren Street County Road 21 to the County of Elgin for the purposes of road widening if the right of way is not already to that width, to the satisfaction of the County Engineer. All costs to be borne by the owner.
2. Direct Connection to a legal outlet for the severed lot is required – If an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited.
3. A Lot Grading Plan is required for the severed lot.
4. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
5. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed



Recorded Vote	Yes	No
John Andrews (Southwold)		No
John “Ian” Fleck - Chair (Dutton/Dunwich)	Yes	
Dennis O’Grady (Central Elgin)	Yes	
Rosemary Kennedy (Malahide)	Yes	
John Seldon (Bayham)	Yes	
Jack Van Kasteren (Aylmer)	Yes	
Dugald Aldred (West Elgin)	Yes	

- Carried

**Reasons:** Creation of a new lot.

**Application E 15-21:**

Dave & Barb Wheeler  
8847 Iona Rd  
Municipality of Dutton Dunwich  
Agent: Marcus Lennox

*The applicants propose to sever and convey a parcel with a frontage of 30.48 metres (100.0 feet) along Iona Rd, a depth of 15.01 metres (49.25 feet) and an area of 0.046 hectares (0.11 acres) proposed for residential use. The owners are retaining 0.33 hectares (0.82 acres) with an existing residential use.*

**Request that the applicant’s agents and any interested parties who wish to speak to this application please introduce themselves to the Committee.**

Written submissions were received from the following:

1. **Municipality of Dutton Dunwich** - Administration recommends that the request for severance be approved, with conditions.
2. **Brian Lima, Director Engineering Services** – Not a County road
3. **Nancy Pasato, Manager of Planning** – The proposed severance application meets the policies of the County Official Plan, and the County of Elgin supports this application for consent.

*A copy of the comment package which includes all correspondence received is available upon request.*

**Moved by: Jack Van Kasteren**

**Seconded by: John Seldon**

**That severance application E 15-21 be granted subject to the following conditions:**

It is recommended that conditions from the Municipality of Dutton Dunwich be included as conditions for consent:

1. That septic system review has been completed;
2. That municipal drain re-apportionments have been completed;
3. That a mutual drainage agreement (under Section 2 of the Drainage Act) has been provided to provide a legal drainage outlet;
4. That two (2) hard copies and one (1) digital copy of the registered survey have been provided to the Municipality;
5. That taxes are to be paid in full;
6. That all Dutton Dunwich planning applications fees, set out in the Fees Bylaw, be paid to the Municipality;
7. That the solicitor provides an undertaking that a copy of the registered deed for the severed parcel once the transaction has occurred will be provided to the Municipality; and
8. That the lots merge on title.

Staff support this application for consent, and recommend the following conditions:

1. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin;
2. Solicitor Undertaking to provide copy of registered deed for the severed parcel once completed; and
3. That the severed lands are deeded in the same name and interest as the abutting lot at 8837 Iona Road and that Section 50 (3) of the Planning Act applies to any future consent affecting the same lands.

**Recorded Vote**

	<u>Yes</u>	<u>No</u>
John Andrews (Southwold)		No
John “Ian” Fleck – Chair (Dutton/Dunwich)	Yes	
Dennis O’Grady (Central Elgin)	Yes	
Rosemary Kennedy (Malahide)	Yes	
John Seldon (Bayham)	Yes	
Jack Van Kasteren (Aylmer)	Yes	

Dugald Aldred (West Elgin)

Yes

- **Carried**

**Reasons:** Addition to abutting lot

**Application E 16-21:**

Parezanovic Farms Inc & Peter Parezanovic  
Furnival St  
Municipality of West Elgin

*The applicants propose to sever a parcel with a frontage of 34.138 metres (112.0 feet) along Furnival Rd by a depth of 60.96 metres (200.0 feet) and an area of 0.208 hectares (0.51 acres) for future residential use. The owners are retaining 36.83 hectares (91.0 acres) proposed to remain in agricultural use.*

**Request that the applicant's agents and any interested parties who wish to speak to this application please introduce themselves to the Committee.**

Peter & Mike Parezanovic were present electronically.

Written submissions were received from the following:

1. **Municipality of West Elgin** - Administration recommends that the request for severance be approved, with conditions.
2. **Brian Lima, Director Engineering Services** – The Engineering Department supports this application, with conditions.
3. **Nancy Pasato, Manager of Planning** – The proposed severance application meets the policies of the County Official Plan, and the County of Elgin supports this application for consent.

*A copy of the comment package which includes all correspondence received is available upon request.*

**Moved by: Dugald Aldred**  
**Seconded by: Dennis O'Grady**

**That severance application E 16-21 be granted subject to the following conditions:**

It is recommended that conditions from the Municipality of West Elgin be included as conditions for consent:

1. That the Applicant meet all the requirements, financial and otherwise of the Municipality, to the satisfaction and clearance of the Municipality.
2. That the Applicant provides a description of the lands to be severed which can be registered in the Land Registry Office, to the satisfaction and clearance of the Municipality.

3. That the Applicant's Solicitor provides an undertaking to the Municipality, to provide a copy of the registered deed for the severed parcel once the transaction has occurred to the Municipality.
4. That the Applicant shall make payment of cash-in-lieu of applicable parkland dedication pursuant to Section 51.1 of the *Planning Act*, to the satisfaction and clearance of the Municipality.
5. That the Applicant successfully apply to the Municipality for a Zoning By-law Amendment and to obtain relief to the Zoning By-law for the severed parcel and retained parcel and having such relief to the Zoning By-law come into full force and effect pursuant to the *Planning Act*, to the satisfaction and clearance of the Municipality.
6. That the South Branch of the McKenzie Drain be improved pursuant to the *Drainage Act*, through realignment, to promote the orderly development of the severed parcel, at the Applicant's sole cost and expense, to the satisfaction and clearance of the Municipality.
7. That the Applicant have a drainage reapportionment completed pursuant to the *Drainage Act*, to the satisfaction and clearance of the Municipality.
8. That the Applicant have a septic system assessment be completed by a qualified individual, on the proposed severed parcel to ensure that the lands are suitable for a privately owned and operated septic system, to the satisfaction and clearance of the Municipality.
9. That the Applicant apply for municipal water connection, at the Applicant's sole cost and expense, to the satisfaction and clearance of the Municipality.
10. That prior the final approval of the County, the County is advised in writing by the Municipality how the above-noted conditions have been satisfied.
11. That the conditions of Applications E17-21, E18-21 and E19-21 be fulfilled, in conjunction with Application E16-21.
12. That all conditions noted above shall be fulfilled within one year of the Notice of Decision, so that the County of Elgin is authorized to issue the Certificate of Consent pursuant to Section 53(42) of the *Planning Act*.

Staff support this application for consent, and recommend the following conditions:

1. Direct connection to a legal outlet for the severed lot is required. If an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited;
2. That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed parcel. All costs associated with this shall be borne by the owner; and
3. A lot grading plan is required for the severed lot.
4. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
5. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed.

**Recorded Vote**

Yes

No

John Andrews (Southwold) No

John “Ian” Fleck - Chair (Dutton/Dunwich) Yes

Dennis O’Grady (Central Elgin) Yes

Rosemary Kennedy (Malahide) Yes

John Seldon (Bayham) Yes

Jack Van Kasteren (Aylmer) Yes

Dugald Aldred (West Elgin) Yes

- Carried

**Reasons:** Creation of a new residential lot

**Application E 17-21:**

Parezanovic Farms Inc & Peter Parezanovic  
Furnival St  
Municipality of West Elgin

*The applicants propose to sever a parcel with a frontage of 34.138 metres (112.0 feet) along Furnival Rd by a depth of 60.96 metres (200.0 feet) and an area of 0.208 hectares (0.51 acres) for future residential use. The owners are retaining 36.62 hectares (90.5 acres) proposed to remain in agricultural use.*

**Request that the applicant’s agents and any interested parties who wish to speak to this application please introduce themselves to the Committee.**

Peter & Mike Parezanovic were present electronically.

Written submissions were received from the following:

1. **Municipality of West Elgin** - Administration recommends that the request for severance be approved, with conditions.
2. **Brian Lima, Director Engineering Services** – The Engineering Department supports this application, with conditions.
3. **Nancy Pasato, Manager of Planning** – The proposed severance application meets the policies of the County Official Plan, and the County of Elgin supports this application for consent.

*A copy of the comment package which includes all correspondence received is available upon request.*

**Moved by: Dennis O'Grady**

**Seconded by: John Seldon**

**That severance application E 17-21 be granted subject to the following conditions:**

It is recommended that conditions from the Municipality of West Elgin be included as conditions for consent:

1. That the Applicant meet all the requirements, financial and otherwise of the Municipality, to the satisfaction and clearance of the Municipality.
2. That the Applicant provides a description of the lands to be severed which can be registered in the Land Registry Office, to the satisfaction and clearance of the Municipality.
3. That the Applicant's Solicitor provides an undertaking to the Municipality, to provide a copy of the registered deed for the severed parcel once the transaction has occurred to the Municipality.
4. That the Applicant shall make payment of cash-in-lieu of applicable parkland dedication pursuant to Section 51.1 of the *Planning Act*, to the satisfaction and clearance of the Municipality.
5. That the Applicant successfully apply to the Municipality for a Zoning By-law Amendment and to obtain relief to the Zoning By-law for the severed parcel and retained parcel and having such relief to the Zoning By-law come into full force and effect pursuant to the Planning Act, to the satisfaction and clearance of the Municipality.
6. That the South Branch of the McKenzie Drain be improved pursuant to the *Drainage Act*, through realignment, to promote the orderly development of the severed parcel, at the Applicant's sole cost and expense, to the satisfaction and clearance of the Municipality.
7. That the Applicant have a drainage reapportionment completed pursuant to the *Drainage Act*, to the satisfaction and clearance of the Municipality.
8. That the Applicant have a septic system assessment be completed by a qualified individual, on the proposed severed parcel to ensure that the lands are suitable for a privately owned and operated septic system, to the satisfaction and clearance of the Municipality.
9. That the Applicant apply for municipal water connection, at the Applicant's sole cost and expense, to the satisfaction and clearance of the Municipality.
10. That prior the final approval of the County, the County is advised in writing by the Municipality how the above-noted conditions have been satisfied.
11. That the conditions of Applications E17-21, E18-21 and E19-21 be fulfilled, in conjunction with Application E16-21.
12. That all conditions noted above shall be fulfilled within one year of the Notice of Decision, so that the County of Elgin is authorized to issue the Certificate of Consent pursuant to Section 53(42) of the *Planning Act*.

Staff support this application for consent, and recommend the following conditions:

1. Direct connection to a legal outlet for the severed lot is required. If an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited;

2. That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed parcel. All costs associated with this shall be borne by the owner; and
3. A lot grading plan is required for the severed lot.
4. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
5. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed.

<b>Recorded Vote</b>	<u>Yes</u>	<u>No</u>
John Andrews (Southwold)		No
John “Ian” Fleck - Chair (Dutton/Dunwich)	Yes	
Dennis O’Grady (Central Elgin)	Yes	
Rosemary Kennedy (Malahide)	Yes	
John Seldon (Bayham)	Yes	
Jack Van Kasteren (Aylmer)	Yes	
Dugald Aldred (West Elgin)	Yes	

- **Carried**

**Reasons:** Creation of a new residential lot

**Application E 18-21:**

Parezanovic Farms Inc & Peter Parezanovic  
Furnival St  
Municipality of West Elgin

*The applicants propose to sever a parcel with a frontage of 34.138 metres (112.0 feet) along Furnival Rd by a depth of 60.96 metres (200.0 feet) and an area of 0.208 hectares (0.51 acres) for future residential use. The owners are retaining 36.42 hectares (90.0 acres) proposed to remain in vacant land agricultural use.*

**Request that the applicant’s agents and any interested parties who wish to speak to this application please introduce themselves to the Committee.**

Peter & Mike Parezanovic were present electronically.

Written submissions were received from the following:

1. **Municipality of West Elgin** - Administration recommends that the request for severance be approved, with conditions.
2. **Brian Lima, Director Engineering Services** – The Engineering Department supports this application, with conditions.
3. **Nancy Pasato, Manager of Planning** – The proposed severance application meets the policies of the County Official Plan, and the County of Elgin supports this application for consent.

*A copy of the comment package which includes all correspondence received is available upon request.*

**Moved by: Jack Van Kasteren**

**Seconded by: Rosemary Kennedy**

**That severance application E 18-21 be granted subject to the following conditions:**

It is recommended that conditions from the Municipality of West Elgin be included as conditions for consent:

1. That the Applicant meet all the requirements, financial and otherwise of the Municipality, to the satisfaction and clearance of the Municipality.
2. That the Applicant provides a description of the lands to be severed which can be registered in the Land Registry Office, to the satisfaction and clearance of the Municipality.
3. That the Applicant's Solicitor provides an undertaking to the Municipality, to provide a copy of the registered deed for the severed parcel once the transaction has occurred to the Municipality.
4. That the Applicant shall make payment of cash-in-lieu of applicable parkland dedication pursuant to Section 51.1 of the *Planning Act*, to the satisfaction and clearance of the Municipality.
5. That the Applicant successfully apply to the Municipality for a Zoning By-law Amendment and to obtain relief to the Zoning By-law for the severed parcel and retained parcel and having such relief to the Zoning By-law come into full force and effect pursuant to the Planning Act, to the satisfaction and clearance of the Municipality.
6. That the South Branch of the McKenzie Drain be improved pursuant to the *Drainage Act*, through realignment, to promote the orderly development of the severed parcel, at the Applicant's sole cost and expense, to the satisfaction and clearance of the Municipality.
7. That the Applicant have a drainage reapportionment completed pursuant to the *Drainage Act*, to the satisfaction and clearance of the Municipality.
8. That the Applicant have a septic system assessment be completed by a qualified individual, on the proposed severed parcel to ensure that the lands are suitable for a privately owned and operated septic system, to the satisfaction and clearance of the Municipality.
9. That the Applicant apply for municipal water connection, at the Applicant's sole cost and expense, to the satisfaction and clearance of the Municipality.



10. That prior the final approval of the County, the County is advised in writing by the Municipality how the above-noted conditions have been satisfied.
11. That the conditions of Applications E17-21, E18-21 and E19-21 be fulfilled, in conjunction with Application E16-21.
12. That all conditions noted above shall be fulfilled within one year of the Notice of Decision, so that the County of Elgin is authorized to issue the Certificate of Consent pursuant to Section 53(42) of the *Planning Act*.

Staff support this application for consent, and recommend the following conditions:

1. Direct connection to a legal outlet for the severed lot is required. If an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited;
2. That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed parcel. All costs associated with this shall be borne by the owner; and
3. A lot grading plan is required for the severed lot.
4. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
5. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed.

Recorded Vote	Yes	No
John Andrews (Southwold)		No
John “Ian” Fleck - Chair (Dutton/Dunwich)	Yes	
Dennis O’Grady (Central Elgin)	Yes	
Rosemary Kennedy (Malahide)	Yes	
John Seldon (Bayham)	Yes	
Jack Van Kasteren (Aylmer)	Yes	
Dugald Aldred (West Elgin)	Yes	

- Carried

**Reasons:** Creation of a new residential lot

**Application E 19-21:**

Parezanovic Farms Inc & Peter Parezanovic  
Furnival St  
Municipality of West Elgin

*The applicants propose to sever a parcel with a frontage of 34.138 metres (112.0 feet) along Furnival Rd by a depth of 60.96 metres (200.0 feet) and an area of 0.208 hectares (0.51 acres) for future residential use. The owners are retaining 36.42 hectares (90.0 acres) proposed to remain in vacant land agricultural use.*

**Request that the applicant's agents and any interested parties who wish to speak to this application please introduce themselves to the Committee.**

Peter & Mike Parezanovic were present electronically.

Written submissions were received from the following:

1. **Municipality of West Elgin** - Administration recommends that the request for severance be approved, with conditions.
2. **Brian Lima, Director Engineering Services** – The Engineering Department supports this application, with conditions.
3. **Nancy Pasato, Manager of Planning** – The proposed severance application meets the policies of the County Official Plan, and the County of Elgin supports this application for consent.

*A copy of the comment package which includes all correspondence received is available upon request.*

**Moved by: Dugald Aldred**

**Seconded by: Jack Van Kasteren**

**That severance application E 19-21 be granted subject to the following conditions:**

It is recommended that conditions from the Municipality of West Elgin be included as conditions for consent:

1. That the Applicant meet all the requirements, financial and otherwise of the Municipality, to the satisfaction and clearance of the Municipality.
2. That the Applicant provides a description of the lands to be severed which can be registered in the Land Registry Office, to the satisfaction and clearance of the Municipality.
3. That the Applicant's Solicitor provides an undertaking to the Municipality, to provide a copy of the registered deed for the severed parcel once the transaction has occurred to the Municipality.
4. That the Applicant shall make payment of cash-in-lieu of applicable parkland dedication pursuant to Section 51.1 of the *Planning Act*, to the satisfaction and clearance of the Municipality.
5. That the Applicant successfully apply to the Municipality for a Zoning By-law Amendment and to obtain relief to the Zoning By-law for the severed parcel and retained parcel and having such relief to the Zoning By-law come into full force and effect pursuant to the Planning Act, to the satisfaction and clearance of the Municipality.

6. That the South Branch of the McKenzie Drain be improved pursuant to the *Drainage Act*, through realignment, to promote the orderly development of the severed parcel, at the Applicant's sole cost and expense, to the satisfaction and clearance of the Municipality.
7. That the Applicant have a drainage reapportionment completed pursuant to the *Drainage Act*, to the satisfaction and clearance of the Municipality.
8. That the Applicant have a septic system assessment be completed by a qualified individual, on the proposed severed parcel to ensure that the lands are suitable for a privately owned and operated septic system, to the satisfaction and clearance of the Municipality.
9. That the Applicant apply for municipal water connection, at the Applicant's sole cost and expense, to the satisfaction and clearance of the Municipality.
10. That prior the final approval of the County, the County is advised in writing by the Municipality how the above-noted conditions have been satisfied.
11. That the conditions of Applications E17-21, E18-21 and E19-21 be fulfilled, in conjunction with Application E16-21.
12. That all conditions noted above shall be fulfilled within one year of the Notice of Decision, so that the County of Elgin is authorized to issue the Certificate of Consent pursuant to Section 53(42) of the *Planning Act*.

Staff support this application for consent, and recommend the following conditions:

1. Direct connection to a legal outlet for the severed lot is required. If an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited;
2. That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed parcel. All costs associated with this shall be borne by the owner; and
3. A lot grading plan is required for the severed lot.
4. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
5. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed.

**Recorded Vote**

	Yes	No
John Andrews (Southwold)		No
John "Ian" Fleck - Chair (Dutton/Dunwich)	Yes	
Dennis O'Grady (Central Elgin)	Yes	
Rosemary Kennedy (Malahide)	Yes	
John Seldon (Bayham)	Yes	

Jack Van Kasteren (Aylmer)	Yes
Dugald Aldred (West Elgin)	Yes

- Carried

**Reasons:** Creation of a new residential lot

**Application E 20-21:**

John & Teresa Vanderdeen  
11232 Willey Rd  
Municipality of Dutton Dunwich  
Agent: David Roe

*The applicants propose to sever a parcel with a frontage of 70.2 metres (230.31 feet) along Willey Rd by a depth of 114.049 metres (374.18 feet) and an area of 0.84 hectares (2.07 acres) containing one residence surplus to the needs of the owners. The owners are retaining 36.6 hectares (90.44 acres) proposed to remain in agricultural use.*

**Request that the applicant's agents and any interested parties who wish to speak to this application please introduce themselves to the Committee.**

Agent: David Roe was present electronically

Proposed buyer: David Durham was present electronically

Written submissions were received from the following:

1. **Municipality of Dutton Dunwich** - Administration recommends that the request for deferral until a future meeting be approved.
2. **Brian Lima, Director Engineering Services** – Not a County road
3. **Nancy Pasato, Manager of Planning** – The proposed severance application meets the policies of the County Official Plan, and the County of Elgin supports this application for consent.

*A copy of the comment package which includes all correspondence received is available upon request.*

Deferral requested by the Municipality of Dutton Dunwich due to outstanding concerns raised by staff.

**Moved by:** Dugald Aldred

**Seconded by:** Jack Van Kasteren

**That severance application E 20-21 be deferred until a future meeting, at no extra**

**cost to the applicant.**

<b>Recorded Vote</b>	<b>Yes</b>	<b>No</b>
John Andrews (Southwold)		No
John “Ian” Fleck - Chair (Dutton/Dunwich)	Yes	
Dennis O’Grady (Central Elgin)	Yes	
Rosemary Kennedy (Malahide)	Yes	
John Seldon (Bayham)	Yes	
Jack Van Kasteren (Aylmer)	Yes	
Dugald Aldred (West Elgin)	Yes	

- **Carried**

Reasons: Creation of a new lot surplus to the needs of the owner.

**Application E 21-21:**

943448 Ontario Inc (Dawson)  
51275 Wilson Line  
Township of Malahide  
Agent: David Roe

*The applicants propose to sever a parcel with a frontage of 68 metres (223.10 feet) along Wilson Line by a depth of 60 metres (196.85 feet) and an area of 0.41 hectares (1.01 acres) containing one residence surplus to the needs of the owner. The owners are retaining 33.1 hectares (81.79 acres) proposed to remain in agricultural use.*

**Request that the applicant’s agents and any interested parties who wish to speak to this application please introduce themselves to the Committee.**

Agent: David Roe was present electronically

Written submissions were received from the following:

1. **Township of Malahide** - Administration recommends that the request for severance be approved, with conditions.
2. **Brian Lima, Director Engineering Services** – Not a County road
3. **Nancy Pasato, Manager of Planning** – The proposed severance application meets the policies of the County Official Plan, and the County of Elgin supports this application for consent.

*A copy of the comment package which includes all correspondence received is available upon request.*

**Moved by: Jack Van Kasteren**

**Seconded by: Rosemary Kennedy**

**That severance application E 21-21 be granted subject to the following conditions:**

It is recommended that conditions from the Township of Malahide be included as conditions for consent:

1. That the applicant initiate and assume, if required, all engineering costs associated with the preparation of a revised assessment schedule in accordance with the Drainage Act, RSO 1990, as amended, with a deposit to be paid in full to the township prior to the condition being deemed fulfilled. If the deposit does not cover the costs of the revised assessment schedule, the applicant will be billed for any additional costs incurred.
2. That all outstanding work orders or by-law enforcement issues be resolved to the satisfaction of the Chief Building Official prior to the condition being deemed fulfilled.
3. That the applicants initiate and assume all planning costs associated with the required Official Plan Amendment, Zoning Amendment, Minor Variance or other land use planning process as required in accordance with the Ontario Planning Act, RSO 1990, with such cost to be paid in full to the Township and that the required process be successfully completed prior to the condition being deemed fulfilled.
4. Confirmation that private sewage system be confined entirely within the boundaries of the newly created parcel. That system be in conformance with all required setbacks from lot lines prior to the condition being deemed fulfilled.
5. That the necessary deeds, transfers and charges for certificates and/or instruments necessary for registration be submitted in triplicate prior to certification all of which are to be fully executed.
6. That all applicable property taxes, municipal fees and charges be paid to the Municipality prior to the stamping of the deeds.
7. That an electronic version of the reference plan be submitted to the satisfaction of the Municipality.
8. That the applicant is responsible to apply and pay all fees to the Township with respect to Civic Addressing Numbers/Signage for the severed and retained portions of property prior to the condition being deemed fulfilled.
9. That the existing barn located on the retained parcel be removed or demolished (and the lands graded to a level condition to the satisfaction of the Township), or, has obtained a Change of Use Permit from the Township that eliminates the ability for the structure to house livestock, prior to the condition being deemed fulfilled.

Staff support this application for consent, and recommend the following conditions:

1. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and

2. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed.

Recorded Vote	Yes	No
John Andrews (Southwold)		No
John “Ian” Fleck - Chair (Dutton/Dunwich)	Yes	
Dennis O’Grady (Central Elgin)	Yes	
Rosemary Kennedy (Malahide)	Yes	
John Seldon (Bayham)	Yes	
Jack Van Kasteren (Aylmer)	Yes	
Dugald Aldred (West Elgin)	Yes	

- **Carried**

Reasons: Creation of a new lot surplus to the needs of the owner.

**Application E 22-21:**

Patricia Zimmer  
49408 Glencolin Line  
Township of Malahide  
Agent: Don Ferguson

*The applicants propose to sever a parcel with a frontage of 59 metres (193.57 feet) along Glencolin Line by a depth of 85 metres (278.87 feet) and an area of 0.49 hectares (1.21 acres) containing one residence surplus to the needs of the owner. The owners are retaining 7.16 hectares (17.69 acres) proposed to remain in agricultural use.*

**Request that the applicant’s agents and any interested parties who wish to speak to this application please introduce themselves to the Committee.**

Agent: Don Ferguson was present electronically

Written submissions were received from the following:

1. **Township of Malahide** - Administration recommends that the request for severance be approved, with conditions.
2. **Brian Lima, Director Engineering Services** – The Engineering Department supports this application, with conditions.

3. **Nancy Pasato, Manager of Planning** – The proposed severance application meets the policies of the County Official Plan, and the County of Elgin supports this application for consent.

*A copy of the comment package which includes all correspondence received is available upon request.*

**Moved by: Rosemary Kennedy**

**Seconded by: Jack Van Kasteren**

**That severance application E 22-21 be granted subject to the following conditions:**

It is recommended that conditions from the Township of Malahide be included as conditions for consent:

1. That the applicant initiate and assume, if required, all engineering costs associated with the preparation of a revised assessment schedule in accordance with the Drainage Act, RSO 1990, as amended, with a deposit to be paid in full to the township prior to the condition being deemed fulfilled. If the deposit does not cover the costs of the revised assessment schedule, the applicant will be billed for any additional costs incurred.
2. That all outstanding work orders or by-law enforcement issues be resolved to the satisfaction of the Chief Building Official prior to the condition being deemed fulfilled.
3. That the applicants initiate and assume all planning costs associated with the required Official Plan Amendment, Zoning Amendment, Minor Variance or other land use planning process as required in accordance with the Ontario Planning Act, RSO 1990, with such cost to be paid in full to the Township and that the required process be successfully completed prior to the condition being deemed fulfilled.
4. Confirmation that private sewage system be confined entirely within the boundaries of the newly created parcel. That system be in conformance with all required setbacks from lot lines prior to the condition being deemed fulfilled.
5. That the necessary deeds, transfers and charges for certificates and/or instruments necessary for registration be submitted in triplicate prior to certification all of which are to be fully executed.
6. That all applicable property taxes, municipal fees and charges be paid to the Municipality prior to the stamping of the deeds.
7. That an electronic version of the reference plan be submitted to the satisfaction of the Municipality.
8. That the applicant is responsible to apply and pay all fees to the Township with respect to Civic Addressing Numbers/Signage for the severed and retained portions of property prior to the condition being deemed fulfilled.

Staff support this application for consent, and recommend the following conditions:

1. That the owner dedicate lands along the frontage of the severed and retained lots/parcels up to 15m from the centerline of construction of Glencolin Road County Road 32 to the County of Elgin for the purposes of road widening if the



- right of way is not already to that width, to the satisfaction of the County Engineer. All costs to be borne by the owner.
2. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
  3. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed.

Recorded Vote	Yes	No
John Andrews (Southwold)		No
John “Ian” Fleck - Chair (Dutton/Dunwich)	Yes	
Dennis O’Grady (Central Elgin)		No
Rosemary Kennedy (Malahide)	Yes	
John Seldon (Bayham)	Yes	
Jack Van Kasteren (Aylmer)	Yes	
Dugald Aldred (West Elgin)	Yes	

- **Carried**

Reasons: Creation of a new lot surplus to the needs of the owner.

**Application E 23-21:**

Middlemarch Farms Ltd  
36309 Fingal Line  
Township of Southwold  
Agent: Don Ferguson

*The applicants propose to sever a parcel with a frontage of 14.2 metres (46.59 feet) along Fingal Line by a depth of 438.6 metres (1438.98 feet) and an area of 0.97 hectares (2.40 acres) containing one residence surplus to the needs of the owner. The owners are retaining 38.73 hectares (95.70 acres) proposed to remain in agricultural use.*

**Request that the applicant’s agents and any interested parties who wish to speak to this application please introduce themselves to the Committee.**

Agent: Don Ferguson was present electronically

Written submissions were received from the following:

1. **Township of Southwold** - Administration recommends that the request for severance be approved, with conditions.
2. **Brian Lima, Director Engineering Services** – The Engineering Department has no concerns and supports this application.
3. **Nancy Pasato, Manager of Planning** – The proposed severance application meets the policies of the County Official Plan, and the County of Elgin supports this application for consent.

*A copy of the comment package which includes all correspondence received is available upon request.*

**Moved by: Dennis O’Grady**

**Seconded by: Dugald Aldred**

**That severance application E 23-21 be granted subject to the following conditions:**

It is recommended that conditions from the Township of Southwold be included as conditions for consent:

1. That the Applicant meet all the requirements, financial and otherwise of the Municipality, to the satisfaction and clearance of the Municipality.
2. That the Applicant provides a description of the lands to be severed which can be registered in the Land Registry Office, to the satisfaction and clearance of the Municipality.
3. That the Applicant’s Solicitor provides an undertaking to the Municipality, to provide a copy of the registered deed for the severed parcel once the transaction has occurred to the Municipality.
4. That the Applicant successfully apply to the Municipality for a Zoning By-law Amendment and to rezone and obtain relief to the Zoning By-law for the severed parcel and retained parcel and having such relief to the Zoning By-law come into full force and effect pursuant to the Planning Act, to the satisfaction and clearance of the Municipality.
5. That the Applicant have a drainage reapportionment completed pursuant to the Drainage Act, to the satisfaction and clearance of the Municipality.
6. That the Applicant provide a Mutual Drain Agreement pursuant to the Drainage Act, to the satisfaction and clearance of the Municipality.
7. That the Applicant have a septic system assessment be completed by a qualified individual, on the proposed severed parcel to ensure that the lands are suitable for a privately owned and operated septic system, to the satisfaction and clearance of the Municipality.
8. That prior the final approval of the County, the County is advised in writing by the Municipality how the above- noted conditions have been satisfied.
9. That all conditions noted above shall be fulfilled within one year of the Notice of Decision, so that the County of Elgin is authorized to issue the Certificate of Consent pursuant to Section 53(42) of the Planning Act.

Staff support this application for consent, and recommend the following conditions:

1. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
2. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed.

**Recorded Vote**

	Yes	No
John Andrews (Southwold)		No
John “Ian” Fleck - Chair (Dutton/Dunwich)	Yes	
Dennis O’Grady (Central Elgin)		No
Rosemary Kennedy (Malahide)	Yes	
John Seldon (Bayham)	Yes	
Jack Van Kasteren (Aylmer)	Yes	
Dugald Aldred (West Elgin)	Yes	

- **Carried**

Reasons: Creation of a new lot surplus to the needs of the owner.

**Application E 24-21:**

Middlemarch Farms Ltd  
36653 Fingal Line  
Township of Southwold  
Agent: Don Ferguson

*The applicants propose to sever a parcel with a frontage of 58 metres (190.29 feet) along Fingal Line by a depth of 74.33 metres (243.86 feet) and an area of 0.44 hectares (1.09 acres) containing one residence surplus to the needs of the owner. The owners are retaining 60.1 hectares (148.51 acres) proposed to remain in agricultural use.*

**Request that the applicant’s agents and any interested parties who wish to speak to this application please introduce themselves to the Committee.**

Agent: Don Ferguson was present electronically

Written submissions were received from the following:

1. **Township of Southwold** - Administration recommends that the request

for severance be approved, with conditions.

2. **Brian Lima, Director Engineering Services** – The Engineering Department has no concerns and supports this application.
3. **Nancy Pasato, Manager of Planning** – The proposed severance application meets the policies of the County Official Plan, and the County of Elgin supports this application for consent.

*A copy of the comment package which includes all correspondence received is available upon request.*

**Moved by: John Seldon**

**Seconded by: Rosemary Kennedy**

**That severance application E 24-21 be granted subject to the following conditions:**

It is recommended that conditions from the Township of Southwold be included as conditions for consent:

1. That the Applicant meet all the requirements, financial and otherwise of the Municipality, to the satisfaction and clearance of the Municipality.
2. That the Applicant provides a description of the lands to be severed which can be registered in the Land Registry Office, to the satisfaction and clearance of the Municipality.
3. That the Applicant's Solicitor provides an undertaking to the Municipality, to provide a copy of the registered deed for the severed parcel once the transaction has occurred to the Municipality.
4. That the Applicant successfully apply to the Municipality for a Zoning By-law Amendment and to rezone and obtain relief to the Zoning By-law for the severed parcel and retained parcel and having such relief to the Zoning By-law come into full force and effect pursuant to the Planning Act, to the satisfaction and clearance of the Municipality.
5. That the Applicant remove or relocate the existing accessory use detached shed on the severed parcel, to obtain Zoning By-law compliance, to the satisfaction and clearance of the Municipality.
6. That the Applicant have a drainage reapportionment completed pursuant to the Drainage Act, to the satisfaction and clearance of the Municipality.
7. That the Applicant provide a Mutual Drain Agreement pursuant to the Drainage Act, to the satisfaction and clearance of the Municipality.
8. That the Applicant have a septic system assessment be completed by a qualified individual, on the proposed severed parcel to ensure that the lands are suitable for a privately owned and operated septic system, to the satisfaction and clearance of the Municipality.
9. That prior the final approval of the County, the County is advised in writing by the Municipality how the above- noted conditions have been satisfied.
10. That all conditions noted above shall be fulfilled within one year of the Notice of Decision, so that the County of Elgin is authorized to issue the Certificate of Consent pursuant to Section 53(42) of the Planning Act.

Staff support this application for consent, and recommend the following conditions:

1. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
2. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed.

<b>Recorded Vote</b>	<b>Yes</b>	<b>No</b>
John Andrews (Southwold)		No
John “Ian” Fleck - Chair (Dutton/Dunwich)	Yes	
Dennis O’Grady (Central Elgin)		No
Rosemary Kennedy (Malahide)	Yes	
John Seldon (Bayham)	Yes	
Jack Van Kasteren (Aylmer)	Yes	
Dugald Aldred (West Elgin)	Yes	

- **Carried**

Reasons: Creation of a new lot surplus to the needs of the owner.

**Application E 25-21:**

Marion Wallace  
48554 Yorke Line  
Township of Malahide  
Agent: Jerry Collins

*The applicants propose to sever a parcel with a frontage of 54.983 metres (180.39 feet) along Yorke Line by a depth of 81.064/80.916 metres (265.96/265.47 feet) and an area of 0.44 hectares (1.09 acres) containing one residence surplus to the needs of the owner. The owners are retaining 35.46 hectares (87.62 acres) proposed to remain in agricultural use.*

**Request that the applicant’s agents and any interested parties who wish to speak to this application please introduce themselves to the Committee.**

Agent: Jerry Collins was present electronically

Written submissions were received from the following:

1. **Township of Malahide** - Administration recommends that the request for severance be approved, with conditions.
2. **Brian Lima, Director Engineering Services** – Not a County road.
3. **Nancy Pasato, Manager of Planning** – The proposed severance application meets the policies of the County Official Plan, and the County of Elgin supports this application for consent.

*A copy of the comment package which includes all correspondence received is available upon request.*

**Moved by: Dennis O’Grady**

**Seconded by: Rosemary Kennedy**

**That severance application E 25-21 be granted subject to the following conditions:**

It is recommended that conditions from the Township of Malahide be included as conditions for consent:

1. That the applicant initiate and assume, if required, all engineering costs associated with the preparation of a revised assessment schedule in accordance with the Drainage Act, RSO 1990, as amended, with a deposit to be paid in full to the township prior to the condition being deemed fulfilled. If the deposit does not cover the costs of the revised assessment schedule, the applicant will be billed for any additional costs incurred.
2. That all entrance permits are acquired from the appropriate road authority as per our entrance control policy.
3. That all outstanding work orders or by-law enforcement issues be resolved to the satisfaction of the Chief Building Official prior to the condition being deemed fulfilled.
4. That the applicants initiate and assume all planning costs associated with the required Official Plan Amendment, Zoning Amendment, Minor Variance or other land use planning process as required in accordance with the Ontario Planning Act, RSO 1990, with such cost to be paid in full to the Township and that the required process be successfully completed prior to the condition being deemed fulfilled.
5. Confirmation that private sewage system be confined entirely within the boundaries of the newly created parcel. That system be in conformance with all required setbacks from lot lines prior to the condition being deemed fulfilled.
6. That the necessary deeds, transfers and charges for certificates and/or instruments necessary for registration be submitted in triplicate prior to certification all of which are to be fully executed.
7. That an electronic version of the reference plan be submitted to the satisfaction of the Municipality.
8. That the applicant is responsible to apply and pay all fees to the Township with respect to Civic Addressing Numbers/Signage for the severed and retained portions of property prior to the condition being deemed fulfilled.
9. The existing barn should either be demolished or the animal stalls within the barn completely removed (through a Change of Use Permit with the

Township's Building Division) so to ensure there will not be livestock housed in this structure.

Staff support this application for consent, and recommend the following conditions:

1. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
2. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed.

<b>Recorded Vote</b>	<u>Yes</u>	<u>No</u>
John Andrews (Southwold)		No
John "Ian" Fleck - Chair (Dutton/Dunwich)	Yes	
Dennis O'Grady (Central Elgin)	Yes	
Rosemary Kennedy (Malahide)	Yes	
John Seldon (Bayham)		No
Jack Van Kasteren (Aylmer)	Yes	
Dugald Aldred (West Elgin)	Yes	

- **Carried**

Reasons: Creation of a new lot surplus to the needs of the owner.

**Application E 26-21:**

Marion Wallace  
48670 Yorke Line  
Township of Malahide  
Agent: Jerry Collins

*The applicants propose to sever a parcel with a frontage of 48.613 metres (159.49 feet) along Yorke Line by a depth of 81.548/84.632 metres (267.55/277.66 feet) and an area of 0.40 hectares (0.99 acres) containing one residence surplus to the needs of the owner. The owners are retaining 35.93 hectares (88.78 acres) proposed to remain in agricultural use.*

**Request that the applicant's agents and any interested parties who wish to speak to this application please introduce themselves to the Committee.**

Agent: Jerry Collins was present electronically

Written submissions were received from the following:

1. **Township of Malahide** - Administration recommends that the request for severance be approved, with conditions.
2. **Brian Lima, Director Engineering Services** – Not a County road.
3. **Nancy Pasato, Manager of Planning** – The proposed severance application meets the policies of the County Official Plan, and the County of Elgin supports this application for consent.

*A copy of the comment package which includes all correspondence received is available upon request.*

**Moved by: Rosemary Kennedy**

**Seconded by: Jack Van Kasteren**

**That severance application E 26-21 be granted subject to the following conditions:**

It is recommended that conditions from the Township of Malahide be included as conditions for consent:

1. That the applicant initiate and assume, if required, all engineering costs associated with the preparation of a revised assessment schedule in accordance with the Drainage Act, RSO 1990, as amended, with a deposit to be paid in full to the township prior to the condition being deemed fulfilled. If the deposit does not cover the costs of the revised assessment schedule, the applicant will be billed for any additional costs incurred.
2. That all outstanding work orders or by-law enforcement issues be resolved to the satisfaction of the Chief Building Official prior to the condition being deemed fulfilled.
3. That the applicants initiate and assume all planning costs associated with the required Official Plan Amendment, Zoning Amendment, Minor Variance or other land use planning process as required in accordance with the Ontario Planning Act, RSO 1990, with such cost to be paid in full to the Township and that the required process be successfully completed prior to the condition being deemed fulfilled.
4. Confirmation that private sewage system be confined entirely within the boundaries of the newly created parcel. That system be in conformance with all required setbacks from lot lines prior to the condition being deemed fulfilled.
5. That the necessary deeds, transfers and charges for certificates and/or instruments necessary for registration be submitted in triplicate prior to certification all of which are to be fully executed.
6. That all applicable property taxes, municipal fees and charges be paid to the Municipality prior to the stamping of the deeds.
7. That an electronic version of the reference plan be submitted to the satisfaction of the Municipality.



8. That the applicant is responsible to apply and pay all fees to the Township with respect to Civic Addressing Numbers/Signage for the severed and retained portions of property prior to the condition being deemed fulfilled.

Staff support this application for consent, and recommend the following conditions:

1. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
2. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed.

**Moved by: Rosemary Kennedy**

**Seconded by: Jack Van Kasteren**

**That alternative recommendation for the County to amend Conditions to include SWPH well review to ensure in good working order.**

<b>Recorded Vote</b>	<u>Yes</u>	<u>No</u>
John Andrews (Southwold)		No
John “Ian” Fleck - Chair (Dutton/Dunwich)	Yes	
Dennis O’Grady (Central Elgin)	Yes	
Rosemary Kennedy (Malahide)	Yes	
John Seldon (Bayham)		No
Jack Van Kasteren (Aylmer)	Yes	
Dugald Aldred (West Elgin)	Yes	

- **Carried**

Reasons: Creation of a new lot surplus to the needs of the owner.

**Application E 27-21:**

James Stuart Simpson  
29420 Thamesview Line  
Municipality of Dutton Dunwich

*The applicants propose to sever a parcel with a frontage of 60 metres (196.85 feet) along Thamesview Line by a depth of 120 metres (393.70 feet) and an area of 0.72 hectares (1.78 acres) containing one residence surplus to the needs of the owner. The owners are retaining 141 hectares (348.42 acres) proposed to remain in agricultural use.*

**Request that the applicant's agents and any interested parties who wish to speak to this application please introduce themselves to the Committee.**

Owner: James Stuart Simpson was present electronically  
Kelly Felkar (Daughter and resident of home) was present electronically

Written submissions were received from the following:

1. **Municipality of Dutton Dunwich** - Administration recommends that the request for deferral until a future meeting be approved.
2. **Brian Lima, Director Engineering Services** – Not a County road
3. **Nancy Pasato, Manager of Planning** – The proposed severance application meets the policies of the County Official Plan, and the County of Elgin supports this application for consent.

*A copy of the comment package which includes all correspondence received is available upon request.*

Deferral requested by the Municipality of Dutton Dunwich due to outstanding concerns raised by staff.

Land Division Committee generally is in favour of this application and has requested the Acting Secretary to provide a letter deferring to Dutton Dunwich, asking to provide options for supporting this consent application. Land Division Committee would like to send a resolution to Dutton Dunwich to review their policies to support this as well.

**Moved by: Dugald Aldred**

**Seconded by: Dennis O'Grady**

**That severance application E 27-21 be deferred until a future meeting, at no extra cost to the applicant.**

<b>Recorded Vote</b>	<b>Yes</b>	<b>No</b>
John Andrews (Southwold)		No
John "Ian" Fleck - Chair (Dutton/Dunwich)	Yes	
Dennis O'Grady (Central Elgin)	Yes	
Rosemary Kennedy (Malahide)	Yes	
John Seldon (Bayham)	Yes	
Jack Van Kasteren (Aylmer)	Yes	
Dugald Aldred (West Elgin)	Yes	

- **Carried**

Reasons: Creation of a new lot surplus to the needs of the owner.

**Application E 28-21:**

John Hildebrandt  
10612 Culloden Rd  
Municipality of Bayham

*The applicants propose to sever a parcel with a frontage of 20.0 metres (65.62 feet) along Culloden Road by a depth of 97.522 metres (319.95 feet) and an area of 0.19 hectares (0.47 acres) for future residential use. The owners are retaining 0.37 hectares (0.91 acres) proposed to remain in residential use.*

**Request that the applicant's agents and any interested parties who wish to speak to this application please introduce themselves to the Committee.**

John Hildebrandt was present electronically

Written submissions were received from the following:

1. **Municipality of Bayham** - Administration recommends that the request for severance be approved, with conditions.
2. **Brian Lima, Director Engineering Services** – The Engineering Department supports this application, with conditions.
3. **Nancy Pasato, Manager of Planning** – The proposed severance application meets the policies of the County Official Plan, and the County of Elgin supports this application for consent.

*A copy of the comment package which includes all correspondence received is available upon request.*

**Moved by: Dennis O'Grady**

**Seconded by: Jack Van Kasteren**

**That severance application E 28-21 be granted subject to the following conditions:**

It is recommended that conditions from the Municipality of Bayham be included as conditions for consent:

1. Digital copy of the final survey provided to the municipality.
2. Planning Report fee payable to the municipality.
3. Installation of a private well with water quantity and water quality reports for bacteria and nitrates content meeting the Provincial standards for residential use, as a matter of public health and safety.
4. Municipal lot assessment for soil evaluation (septic).
5. Grading Plan.

6. Municipal Drain Connection – legal outlet for drainage (Drainage Act petition).
7. Purchase civic number signage for the severed lot.
8. Parkland Dedication Fee payable to the municipality.
9. Confirmation of available County Road access.

Staff support this application for consent, and recommend the following conditions:

1. Direct Connection to a legal outlet for the severed lot is required – if an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited.
2. That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed parcel. All costs associated with this shall be borne by the owner.
3. A Lot Grading Plan is required for the severed lot.
4. The applicant is required to submit written confirmation from a licensed well and a licensed septic installer that the well and septic system are in satisfactory operating condition, and the well provides the quality and quantity of potable water required. A water test is also required from the Southwest Public Health confirming the quality of the existing well water.
5. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
6. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed.

**Recorded Vote**

	Yes	No
John Andrews (Southwold)		No
John “Ian” Fleck - Chair (Dutton/Dunwich)	Yes	
Dennis O’Grady (Central Elgin)	Yes	
Rosemary Kennedy (Malahide)	Yes	
John Seldon (Bayham)	Yes	
Jack Van Kasteren (Aylmer)	Yes	
Dugald Aldred (West Elgin)	Yes	

**- Carried**

Reasons: Creation of a new lot.

**Adjournment:**

The Chair adjourned the meeting at 12:34pm.

\_\_\_\_\_  
Acting Secretary-Treasurer

\_\_\_\_\_  
Chair



## **RULES OF PROCEDURE**

### **Land Division Committee for The Corporation of the County of Elgin**

#### **GENERAL**

In addition to fulfilling the requirements of Section 53 of the Planning Act, the Land Division Committee shall observe the following rules and requirements:

#### **APPLICATION**

1. The Secretary-Treasurer shall note and acknowledge the date of receipt of the application.
2. The Land Division Committee will render their decision and the applicant or agent (if named) will be advised in writing, not later than 15 days from the date of the decision.
3. Pre-consultation with the Municipality involved and interested agencies is recommended before submitting the application. This will assist the applicant or agent to understand the by-laws and restrictions that affect the property and it will verify compliance to current regulations.

#### **NOTICE OF HEARING**

4. The Secretary-Treasurer, in the name of the Committee, shall by personal service or by regular or registered mail, give written notice of time and place of the hearing of each application, together with copies of the Application for Consent, comprising items 1 to 27, not less than 14 days prior to the date of the hearing to:
  - (a) Applicant or agent (if named)
  - (b) Clerk of the Municipality (ies) concerned
  - (c) County Engineer
  - (d) County Manager of Planning
  - (e) Ministry of Transportation
  - (f) Ministry of Culture
  - (g) Kettle Creek/Catfish Creek/Long Point/Lower Thames Valley Conservation Authority

- (h) Chief of First Nation Council (within 1km of subject land)
- (i) Every person assessed within 60 metres of subject land (notice only).

## **CERTIFICATION**

5. Upon expiry of the 20-day appeal period and after the conditions have been met, the Secretary- Treasurer shall, on behalf of the Committee, affix a rubber stamp to the deeds or legal documents and sign it, signifying that the consent has been given pursuant to Subsection 42, of Section 53, of the Planning Act. The Secretary-Treasurer shall accept only original copies, accompanied by a fee of \$300.00, for affixing the consent stamp.

The applicant will have one year from the date the decision was given to fulfill conditions imposed by the Committee. One condition generally imposed is that a deed be presented within one year so that the consent stamp may be affixed.

## **IDENTIFICATION STAKES AND SIGNS**

6. Identification Signs will be sent to you by courier after your completed application has been filed. These signs are then to be posted immediately on stakes at each front corner of the proposed lot, and are to remain there until the Decision of the Committee becomes final and binding. Site inspections will be done by a Committee member prior to the hearing date. **Failure to post signs will result in a delay of a decision from the Land Division Committee. Check frequently to ensure that the signs are in place.**

## **DETAILED SKETCH**

7. Must be no greater than 20 cm x 35 cm (8 1/2 x 14"). One copy of the sketch is required, done in black (e.g., ink, felt pen) no pencil or colours. A legend or key indicating severed and retained portions must be shown (e.g., cross-hatching or diagonal lines). Clearly indicate severed and retained portions, with all dimensions of both severed and retained lands on the sketch. **All measurements must be accurate, a variance of 3% on each dimension is acceptable for agricultural land and 1.52 metres on each dimension for non-agricultural land.** Dimensions of all existing buildings should be shown as well as dimensions for their location in relation to property lines and the proposed severance. All buildings and type of land **surrounding both severed and retained portions** must be shown within 300 metres radius for rural areas and 60 metres radius for urban areas. All existing and proposed accesses should be shown. (SEE SAMPLE BELOW)

## **APPEAL**

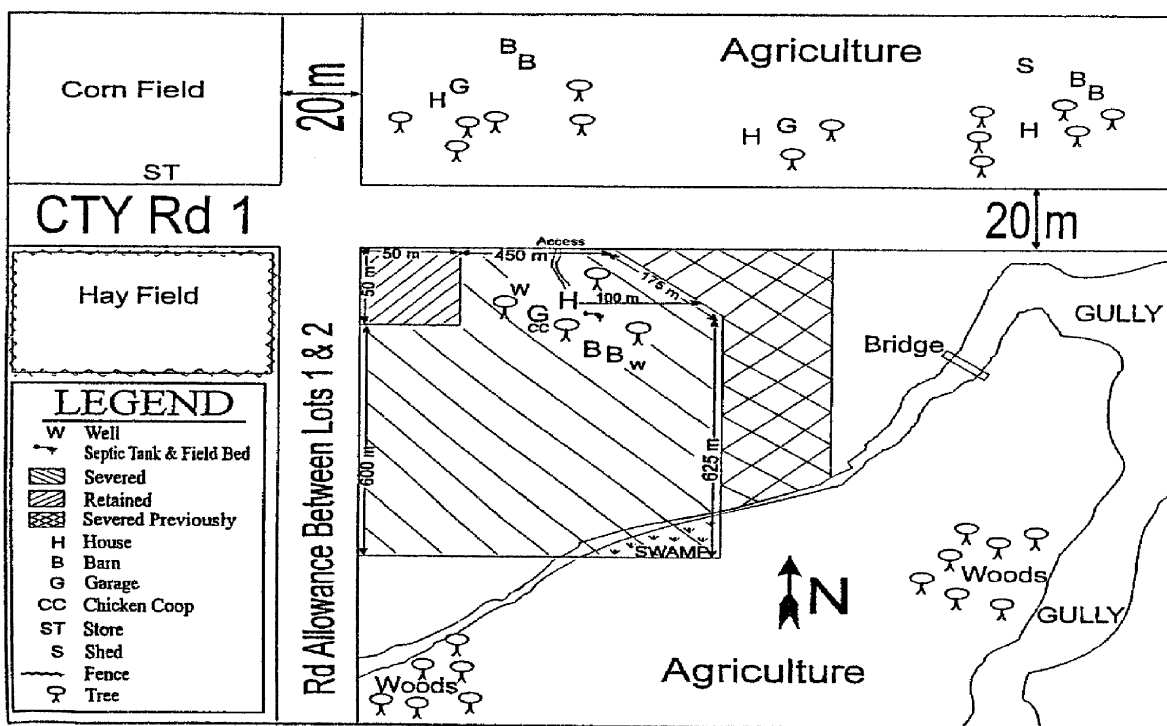
8. Any person or public body may appeal the decision and/or condition(s) imposed by the Committee to the Local Planning Appeal Tribunal by filing with

the Secretary-Treasurer of the Land Division Committee, within 20 days from the giving of the Notice of decision, a Notice of Appeal, accompanied by the Tribunal's fee in the amount of \$300.00 for the first appeal and \$25.00 for each further appeal related to the same matter. Certified Cheques or Money Orders are to be made payable to the Minister of Finance. If you wish to appeal, a copy of the appeal form is available from the LPAT website at [www.elto.gov.on.ca](http://www.elto.gov.on.ca) or for pick-up at the County Municipal Offices, 450 Sunset Drive, St. Thomas.

**RETURN TO:**     **Secretary-Treasurer**  
**Elgin County Land Division**  
**Committee Administration**  
**Building, 2<sup>nd</sup> Floor**  
**450 Sunset Drive, ST. THOMAS, Ontario N5R 5V1**  
**OFFICE HOURS: 8:30 a.m. to 1:30 p.m. Monday through Friday**

**NOTE:**            **Applications may be left at the counter during normal business hours and will be dealt with during the Secretary-Treasurer's office hours.**

#### SAMPLE SKETCH – NOT TO SCALE







### APPLICATION FOR CONSENT

1. Name of Approval Authority ELGIN COUNTY LAND DIVISION COMMITTEE

2. Name of Owner \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_ Email \_\_\_\_\_

Name of owner's solicitor or authorized agent \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_ Email \_\_\_\_\_

Please specify to whom all communications should be sent:

Owners ( ) Solicitor ( ) Agent ( )

3. (a) Type and purpose of proposed transaction: (check appropriate space)

Transfer:	_____ creation of a new lot	Other:	_____ mortgage/charge
	_____ addition to a lot		_____ lease
	_____ surplus farm dwelling		_____ easement/R.O.W.
	_____ technical severance		_____ correction of title
	_____ other (specify) _____		

(b) Name of person(s), if known, to whom land or interest in land is to be transferred, leased or charged:

\_\_\_\_\_

(c) If a lot addition, identify the assessment roll number and property owner of the lands to which the parcel will be added:

\_\_\_\_\_

4. (a) Location of land:

Municipality \_\_\_\_\_ Concession No. \_\_\_\_\_

Lot(s) No. \_\_\_\_\_ Registered Plan No. \_\_\_\_\_

Name of Street \_\_\_\_\_ Street No. and/or 911 No. \_\_\_\_\_

Assessment Roll No. \_\_\_\_\_

(b) Are there any easements or restrictive covenants affecting the subject land?

Yes ( ) No ( ) If Yes, describe the easement or covenant and its effect:

\_\_\_\_\_

5. Description of land intended to be severed: (Accurate Measurements in Metric)

Frontage \_\_\_\_\_ Depth \_\_\_\_\_ Area \_\_\_\_\_

Existing Use \_\_\_\_\_ Proposed Use \_\_\_\_\_

Number and use of buildings and structures on the land to be severed:

Existing \_\_\_\_\_

Proposed \_\_\_\_\_

6. Description of land intended to be retained: (Accurate Measurements in Metric)

Frontage \_\_\_\_\_ Depth \_\_\_\_\_ Area \_\_\_\_\_

Existing Use \_\_\_\_\_ Proposed Use \_\_\_\_\_

Number and use of buildings and structures on the land to be retained:

Existing \_\_\_\_\_

Proposed \_\_\_\_\_

7. Number of new lots proposed (including retained lots) \_\_\_\_\_

8. Type of access for proposed and retained lot: (check appropriate space)

<u>TYPE</u>	<u>PROPOSED LOT</u>	<u>RETAINED LOT</u>
Provincial Highway	( )	( )
Municipal road, maintained all year	( )	( )
Municipal road, seasonally maintained	( )	( )
Other public road	( )	( )
Right Of Way	( )	( )
Water access	( )	( )

If proposed access is by water, what boat docking and parking facilities are available on the mainland?  
(specify) \_\_\_\_\_

9. (a) What type of water supply is proposed: (check appropriate space)

<u>TYPE</u>	<u>PROPOSED LOT</u>	<u>RETAINED LOT</u>
Publicly owned and operated piped water system	( )	( )
Privately owned and operated individual well	( )	( )
Privately owned and operated communal well	( )	( )
Lake or other water body	( )	( )
Other means (specify)	_____	_____

- (b) If existing water supply is provided from a privately owned and operated individual/communal well, **the owner shall be required to provide written confirmation from a licensed well installer that the private well provides the quality and quantity of potable water required by Provincial standards. (Written confirmation to be attached to the Application)**

10. (a) What type of sewage disposal is proposed: (check appropriate space)

<u>TYPE</u>	<u>PROPOSED LOT</u>	<u>RETAINED LOT</u>
Publicly owned and operated sanitary sewage system	( )	( )
Privately owned and operated individual septic tank ( )		( )
Privately owned and operated communal septic system	( )	( )
Other means (specify)	_____	_____

- (b) If existing sewage disposal is privately owned, **the owner shall be required to provide written confirmation from a licensed septic installer that the system is in satisfactory operating condition. (Written confirmation to be attached to the Application)**

11. When will water supply and sewage disposal services be available?

\_\_\_\_\_

12. What is the existing Official Plan designation(s) of the subject land?

\_\_\_\_\_

13. What is the existing Zoning designation(s) of the subject land?

\_\_\_\_\_

14. Has the subject land ever been the subject of an application for approval of a plan of subdivision under the Planning Act? Yes ( ) No ( ) Unknown ( )

If Yes, and known, provide the application file number and the decision made on the application

\_\_\_\_\_

15. If this application is a re-submission of a previous consent application, describe how it has been changed from the original application

\_\_\_\_\_

16. (a) Has there been any previous severances of land from this holding?

Yes ( )

No ( )

- (b) If the answer to (a) is Yes, please indicate previous severances on the required sketch and supply the following information for each lot severed:

Grantee's name \_\_\_\_\_

Use of parcel \_\_\_\_\_

Date parcel created \_\_\_\_\_

17. If this application is for a lot addition, has the lot to be enlarged ever been the subject of a previous severance?

Yes ( ) No ( )

If Yes, provide the previous severance File No.

18. If the application involves the severance of a surplus farmhouse (through farm consolidation), please complete attached Appendix "C" – "Surplus Farm Dwelling Information Form".  
(Completed Appendix "C" to be attached to the Application)

19. (a) Are there any barns within 750 metres of the proposed severed lands?

Yes ( ) No ( )

- i) Now used for livestock? Yes ( ) No ( )  
ii) Capable of being used for livestock? Yes ( ) No ( )

- (b) If there are livestock barns located within 750 metres of the dwelling on the retained lands a MDS 1 calculation is required to be submitted with this application for consent pursuant to Minimum Distance Separation (MDS) document -Implementation Guideline #6.

20. Is the owner, solicitor, or agent applying for additional consents on this holding simultaneously with this application, or considering applying for additional consents in the future?

Yes ( ) No ( )

21. Is the subject land currently the subject of a proposed official plan or official plan amendment that has been submitted to the Minister for approval?

Yes ( ) No ( )

If Yes, and known, specify the Ministry file number and status of the application

22. Is the subject land currently the subject of an application for a zoning by-law amendment, Minister's zoning order amendment, minor variance, or approval of a plan of subdivision?

Yes ( ) No ( )

If Yes, and known, specify the appropriate file number and status of the application

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23. (a) Is the application consistent with the Provincial Policy Statement 2014 issued under subsection 3(1) of the Planning Act?

Yes ( )

No ( )

- (b) If Yes, identify policies from the Provincial Policy Statement 2014 to support this application for consent
- 

24. Is the subject land within an area designated under any provincial plan or plans?

Yes ( )

No ( )

If Yes, does the application conform to or conflict with the applicable provincial plan or plans

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25. Did pre consultation occur with the local Municipality and other agencies (if applicable)?

Yes ( )

No ( )

Enter date of consultation and contact person

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26. The Owner/Applicant/Agent hereby authorizes Land Division Committee members and the Corporation of the County of Elgin staff to enter onto the subject property for the purpose of Site inspections with respect to this application.

27. The Owner/Applicant/Agent hereby consents to disclosure of the information contained in this Application pursuant to Section 32(b) of Bill 49, Chapter 63, S.O. 1989, being an Act to provide for Freedom of Information and Protection of Individual Privacy in Municipalities and Local Boards.

28. DETAILED SKETCH:

The application shall be accompanied by a detailed sketch showing the following:

- the boundaries and dimensions of the subject land, the part that is to be severed and the part that is to be retained;
- the boundaries and dimensions of any land owned by the owner of the subject land and that abuts the subject land;
- the distance between the subject land and the nearest municipal lot line or landmark, such as a railway crossing or bridge;
- the location of all land previously severed from the parcel originally acquired by the current owner of the subject land;
- the approximate location of all natural and artificial features on the subject land and adjacent lands that in the opinion of the applicant may affect the application, such as buildings, railways, roads, watercourses, drainage ditches, river or stream banks, wetlands, wooded areas;
- the location of private wells and septic system must be located entirely within the

boundaries of the lot to be created and shall comply with the Zoning By-Law setbacks;

- the location of private wells and septic system must be located entirely within the boundaries of the lot to be retained and shall comply with the Zoning By-Law setbacks;
- the existing use(s) on adjacent lands;
- the location, width and name of any roads within or abutting the subject land, indicating whether it is an unopened road allowance, a public travelled road, a private road or a right of way;
- if access to the subject land is by water only, the location of the parking and boat docking facilities to be used;
- the location and nature of any easement affecting the subject land.

Dated at the \_\_\_\_\_ of \_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
**SIGNATURE OF APPLICANT(S), SOLICITOR OR AUTHORIZED AGENT**

#### **AFFIDAVIT OR SWORN DECLARATION**

I/We \_\_\_\_\_ of the \_\_\_\_\_

of \_\_\_\_\_ in the County of \_\_\_\_\_

solemnly declare that all the information contained in this application is true, and I/We make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under Oath and by virtue of the CANADA EVIDENCE ACT.

DECLARED before me at the

\_\_\_\_\_ of \_\_\_\_\_

in the \_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_

20 \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
A Commissioner, etc.

If this application is signed by an agent or solicitor on behalf of an applicant(s), the owner's authorization must accompany the application. If the applicant is a corporation acting without agent or solicitor, the application must be signed by an officer of the corporation and the seal, if any, must be affixed.

It is required that one copy of this application be filed, together with one copy of the detailed sketch described, with the responsible person, accompanied by a fee of –

\$1,250.00 in cash or by cheque made payable to TREASURER, COUNTY OF ELGIN

An additional fee of \$300.00 will be charged for affixing the consent stamp.

## AUTHORIZATION TO APPOINT AN AGENT

**NOTE:** This form is only to be used for applications, which are to be signed by someone other than the owner(s).

To: Secretary-Treasurer  
Land Division Committee  
Corporation of the County of Elgin

Description and Location of Subject Lands:

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I/We, the undersigned, being the registered owner(s) of the above lands hereby authorize

\_\_\_\_\_ of \_\_\_\_\_ to:  
(Agents Name/Names) (Agents City/Town of Residence)

- (1) make an application on my behalf to the County of Elgin Land Division Committee;
- (2) appear on my behalf at any hearing(s) of the application; and
- (3) provide any information or material required by the Land Division Committee relevant to the application.

Please Print Names in Block Letters Below Signatures

Dated at the \_\_\_\_\_ of \_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Owner



## APPENDIX “A”

### PROCESS CHECKLIST

- ☐ Pre-consult with Municipalities and applicable agencies.
- ☐ Submit one copy of Completed Application with fee of \$1250.00 payable to TREASURER, COUNTY OF ELGIN.
- ☐ Identification Signs: Two yellow signs will be sent to you by courier for posting on the portion of the lot to be severed. Failure to post signs will result in a delay of a decision from the Land Division Committee. Check frequently to ensure that the signs are in place.
- ☐ Notice of Hearing: At least fourteen (14) days prior to the date of the hearing you will receive a “Notice of Application” with the date and time when the severance will be heard.
- ☐ Hearing: The Land Division Committee will consider the application(s) and submissions by all interested parties regarding the severance. The Committee will make a decision immediately following the hearing of the application.
- ☐ Decision: A Notice of Decision will be forwarded within fifteen (15) days after the date of the Hearing.
- ☐ Conditions: A one-year time limit after the date of decision to obtain the consent stamp on the deed(s) is generally imposed and other conditions may be imposed.
- ☐ Appeal Period: A twenty (20) day appeal period from the giving of the notice of Decision during which any person or public body may appeal the decision and/or conditions imposed by the Committee to the Local Planning Appeal Tribunal. After the appeal period, notice will be sent advising that either no appeals were received or that the application has been appealed.
- ☐ If Appealed: A notice of appeal setting out the reasons for the appeal is forwarded to the Secretary-Treasurer of the Land Division Committee, with a cheque payable to the Minister of Finance for \$300.00 for the first appeal and \$25.00 for each further appeal related to the same matter. Notice of Appeal must be received within the twenty (20) day appeal period. A copy of an appeal form is available from the LPAT website at [www.elto.gov.on.ca](http://www.elto.gov.on.ca) or for pick-up at the County Municipal Offices, 450 Sunset Drive, St Thomas.
- ☐ No Appeal: If no appeal is received, the decision is final and binding and the applicant is required to: a) Satisfy the conditions imposed by the Committee within one (1) year from the date of decision; b) Obtain the services of a land surveyor to survey the lands to be severed in accordance with the Decision; c) Obtain the services of a solicitor to prepare the necessary documents for certification; d) Submit the Transfer documents to the Secretary-Treasurer of the Land Division Committee for final certification; e) Register the documents at the Registry Office for the County of Elgin.
- ☐ Stamping of Deed: Signed Acknowledgement and Direction, Three (3) copies of the Transfer Document with Schedule Page for affixing the consent stamp, Two (2) copies of the Reference Plan (one (1) hardcopy and one (1) digital copy) and a fee of \$300.00.

## APPENDIX “B”

# Surplus Farm Dwelling Information Form

in Support of an Application for Consent  
under the *Planning Act, R.S.O. 1990 c. P.13, as amended*

<b>1. Details of Subject Lands</b>			
Municipal Address			
Legal Description			
Lot Area (metric):	Lot Frontage (metric):	Lot Depth (metric):	Year the surplus dwelling was constructed:
Provide confirmation that the surplus dwelling is capable of human habitation, and that it is not a farm help house:			
<b>2. Proposed Transaction</b>			
Identify the proposed transaction (i.e. the proposed severance)			
Identify how/why the dwelling is surplus to the needs of the owner/purchasing farmer due to farm consolidation?			
<b>3. Details of the Lands Farmed by the Person to whom the Dwelling is Surplus</b>			
To whom is the dwelling surplus?		<input type="checkbox"/> Owner <input type="checkbox"/> Purchasing Farmer	
Total area of land farmed (metric):	Total area of farm land owned (metric):		
Identify the locations of all lands farmed by the owner/purchasing farmer:			
<b>4. Principal Residence of the Owner/Purchasing Farmer</b>			
Identify the location of the owner's/purchasing farmer's principal residence:			
Does the owner/purchasing farmer own or rent their principal residence?		<input type="checkbox"/> Own <input type="checkbox"/> Rent	
Does the owner/purchasing farmer own any other dwellings?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, identify the location of all other dwellings owned by the owner/purchasing farmer:			

## Dawn Wittland-Graham

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**From:** Nancy Pasato  
**Sent:** May 20, 2021 11:53 AM  
**To:** Aisling Lavery; Dawn Wittland-Graham  
**Subject:** FW: comments - E 27-21

Hi All – FYI for the above. I will likely give a verbal update but I don't anticipate a decision and it may get deferred again. Can you add this email to the agenda package Dawn?

### Nancy Pasato

*Manager of Planning*



450 Sunset Drive  
St. Thomas, ON. N5R 5V1  
(519) 631-1460 ext.126  
[www.elgincounty.ca](http://www.elgincounty.ca)  


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**From:** Tracey Pillon-Abbs <Planning@duttondunwich.on.ca>  
**Sent:** May 20, 2021 11:11 AM  
**To:** Nancy Pasato <npasato@ELGIN.ca>  
**Subject:** RE: comments - E 27-21

Hi Nancy

No resolution as of yet.

The applicants appeared before council at their meeting of May 12<sup>th</sup>. Council agreed to have my April staff report come back to the May 26<sup>th</sup> council meeting.

Of course that is after your May 26<sup>th</sup> LDC hearing time that same day.

If council on May 26<sup>th</sup> reconsiders their position on the deferral, I will send you that resolution. Then you can re-schedule the LDC hearing (prop June hearing).

Tracey

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**From:** Nancy Pasato [<mailto:npasato@ELGIN.ca>]  
**Sent:** Thursday, May 20, 2021 10:24 AM  
**To:** Tracey Pillon-Abbs <[Planning@duttondunwich.on.ca](mailto:Planning@duttondunwich.on.ca)>  
**Subject:** comments - E 27-21  
**Importance:** High

Hi Tracey – was there any resolution at your council on the above? Thanks.

**Nancy Pasato**  
*Manager of Planning*



450 Sunset Drive  
St. Thomas, ON. N5R 5V1  
(519) 631-1460 ext.126  
[www.elgincounty.ca](http://www.elgincounty.ca)  


**Notice:** A number of Elgin County services are unavailable at this time due to the evolving health situation (COVID-19). Please visit [www.elgincounty.ca](http://www.elgincounty.ca) for daily updates.



**CORPORATION OF THE COUNTY OF ELGIN  
NOTICE OF APPLICATION FOR CONSENT**

**APPLICATION NO. E 29-21**

**LOT 35, CONCESSION 4  
TOWNSHIP OF MALAHIDE  
MUNICIPAL ADDRESS: 6791 RICHMOND ROAD**

**TAKE NOTICE that** an application has been made by **David & Mary Harder, Wayne Jolly** 6791 Richmond Rd, Aylmer ON N5H 2R5 for a consent pursuant to Section 53 of the Planning Act, 1990, as amended, to sever lands municipally known as 6791 Richmond Rd, Township of Malahide.

The applicants propose to sever a parcel with a frontage of 25.0 metres (82.02 feet) along Richmond Road by a depth of 67.87 metres (222.67 feet) and an area of 0.17 hectares (0.42 acres) for future residential use. The owners are retaining 0.20 hectares (0.49 acres) proposed to remain in residential use.

The location of the property is shown on the Key Map attached.

**ADDITIONAL INFORMATION** regarding the application is available for inspection daily, Monday to Friday, between 8:30 A.M. and 4:30 P.M., at the County Municipal Offices, 450 Sunset Drive, St. Thomas or at a Public Hearing to be held on:

**WEDNESDAY May 26, 2021 AT 9:55 AM.  
BY VIDEO/TELEPHONE CONFERENCE OR IN PERSON AT  
Council Chambers, County Municipal Offices, 450 Sunset Drive, St. Thomas**

Any person or public body may attend the Public Hearing and/or make written or verbal representation either in support of, or in opposition to the proposed consent.

**PLEASE NOTE: YOUR PARTICIPATION BY VIDEO/TELECONFERENCE or  
TELEPHONE IS PREFERRED.**

**DUE TO PROVINCIAL ORDERS, ATTENDANCE IN PERSON MAY BE  
RESTRICTED. PLEASE CONTACT [npasato@elgin.ca](mailto:npasato@elgin.ca) AT LEAST 24 HOURS  
BEFORE THE MEETING TO ARRANGE FOR VIDEO/TELECONFERENCE OR  
TELEPHONE INFORMATION, OR TO CONFIRM IF IN PERSON ATTENDANCE IS  
POSSIBLE.**

If you wish to be notified of the decision of the Land Division Committee in respect of the proposed consent, you must submit a written request to the Land Division Committee. This will also entitle you to be advised of any appeal to the Local Planning Appeal Tribunal.

If a person or public body that files an appeal of a decision of the Land Division Committee in respect of the proposed consent does not make written or oral submissions to the Land Division Committee before it gives or refuses to give a provisional consent, the Local Planning Appeal Tribunal may dismiss the appeal.

Dated at the Municipality of Central Elgin this 5<sup>th</sup> day of May, 2021.

Nancy Pasato  
Acting Secretary-Treasurer  
Land Division Committee

County of Elgin  
Planning Department  
450 Sunset Drive  
St. Thomas, Ontario  
N5R 5V1 Canada  
Phone: 519-631-1460  
Fax: 519-631-4549

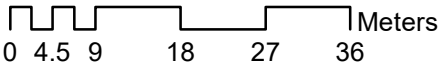




*Location Map*



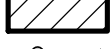


Subject Site: 6791 Richmond Road  
File Number: E29-2021  
Owner: David & Mary Harder, Wayne Jolly  
Planner: Nancy Pasato  
Created By: AL  
Date: 05/05/2021

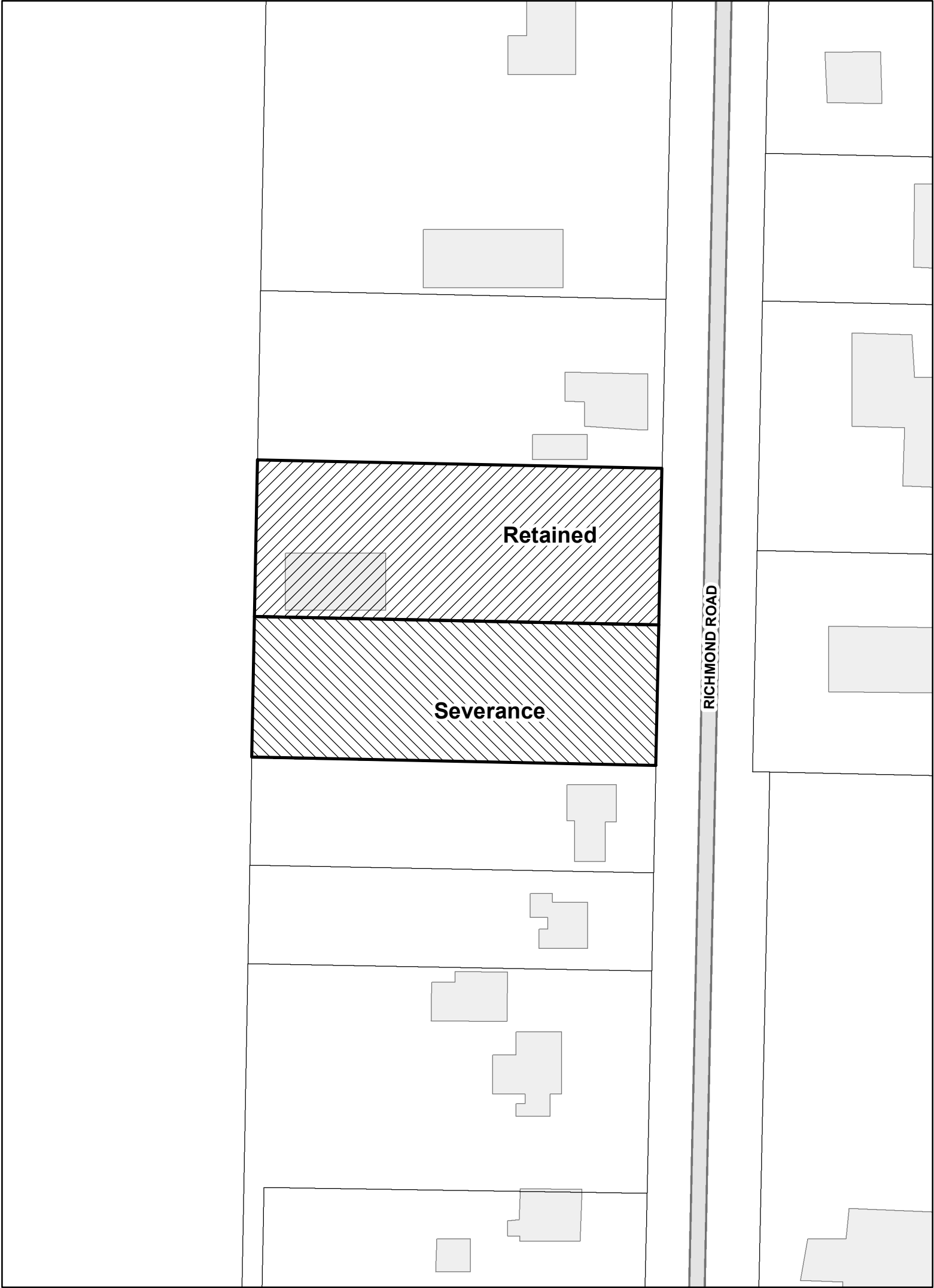
The Corporation of the County Elgin  
Prepared By: Planning and Development



Scale 1:800

*Legend*

-  Subject Site
-  Severance
-  Retained
-  Elgin Road Network
-  Buildings



## Location Map

Subject Site: 6791 Richmond Road  
File Number: E29-2021  
Owner: David & Mary Harder, Wayne Jolly  
Planner: Nancy Pasato  
Created By: AL  
Date: 05/05/2021



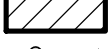


The Corporation of the County Elgin  
Prepared By: Planning and Development



0 4.5 9 18 27 36 Meters

Scale 1:800

## Legend

-  Subject Site
-  Severance
-  Retained
-  Elgin Road Network
-  Buildings





May 7, 2021

Land Division Committee  
County of Elgin  
450 Sunset Drive  
St. Thomas, Ontario  
N5R 5V1

Dear Committee Members:

**RE: Land Severance Application E29/21 – David and Mary Harder/Wayne Jolly**

The Malahide Township Council passed the following Resolutions on May 6, 2021:

**THAT the Malahide Township Council has no objection to the Land Severance No E29/21 in the name of David and Mary Harder and Wayne Jolly, relating to the property located at S Part Lot 35, Concession 4, Geographic Township of Malahide, subject to the following conditions:**

- (i) That the applicant initiates and assume, if required, all engineering and construction costs associated with construction of a new Municipal drain, or, the relocation of Municipal drain. To be commenced in accordance with the Drainage Act, RSO 1990. All costs to be paid in full to the Township prior to the condition being deemed fulfilled. If a lot grading plan is required as a condition of severance, it should be done in conjunction with the new Municipal drain or relocation of Municipal Drain.**
- (ii) That all outstanding work orders or by-law enforcement issues be resolved to the satisfaction of the Chief Building Official prior to the condition being deemed fulfilled.**
- (iii) That the applicants initiate and assume all planning costs associated with the required Minor Variance application (to address the undersized lot area of the severed parcel), with such cost to be paid in full to the Township and that the required process be successfully completed prior to the condition being deemed fulfilled.**
- (iv) Confirmation that a private sewage system is confined entirely within the boundaries of the retained parcel. That system shall be in conformance with all required setbacks from lot lines prior to the condition being deemed fulfilled.**



- (v) The owner has the necessary review and lot assessment conducted to ensure that it is suitable for the installation of a sewage disposal system and payment of necessary fees per lot.**
- (vi) That the necessary deeds, transfers and charges for certificates and/or instruments necessary for registration be submitted in triplicate prior to certification all of which are to be fully executed.**
- (vii) That all applicable property taxes, municipal fees and charges be paid to the Township prior to the stamping of the deeds.**
- (viii) That an electronic version of the reference plan be submitted to the satisfaction of the Municipality.**
- (ix) That the applicant is responsible to apply and pay all fees to the Township with respect to Civic Addressing Numbers/Signage for the severed and retained portions of property prior to the condition being deemed fulfilled.**
- (x) That the portions of the existing gravel driveway and parking area which encroach onto the newly created parcel (to be severed) be replaced with topsoil and grass, and be setback on the retained parcel by a minimum of 1.0 metre and in accordance with Section 4.27 of the Township of Malahide Zoning By-law No. 22-18, as amended.**

We enclose Municipal Appraisal together with Municipal Report DS-21-35 for your records.

Yours very truly,  
TOWNSHIP OF MALAHIDE



M. CASAVECCHIA-SOMERS, D.P.A., C.M.O., CMM III  
Chief Administrative Officer/Clerk

Copy - John Seldon  
Rosemary Kennedy  
David and Mary Harder/Wayne Jolly

## MUNICIPAL APPRAISAL SHEET – LAND DIVISION COMMITTEE

Your assistance is requested in answering the questions below. Please complete Parts 1 and 2 and submit to the Secretary Treasurer of the Land Division Committee as soon as possible. Please complete and submit Part 3 once the local Council has provided a recommendation on the application.

Submission E29/21

Applicant David Harder, Mary Harder and Wayne Jolly

Location 6791 Richmond Road

### PART 1 - OFFICIAL PLAN

1. Is there an O.P. in effect? Yes ( ☒ ) No ( ☐ )

2. Does the proposal conform with the O.P.? Yes ( ☒ ) No ( ☐ )

Land Use Designation: \_\_\_\_\_

Policies: \_\_\_\_\_

### PART 2 - ZONING

3. Is there a By-Law in effect? Yes ( ☒ ) No ( ☐ )

4. Does the proposal conform with all requirements of the By-Law? Yes ( ☒ ) No ( ☐ )

Comments: \_\_\_\_\_

5. If not, is the Municipality prepared to amend the By-Law? Yes ( ☐ ) No ( ☐ )

### PART 3 – COUNCIL RECOMMENDATION – please complete below and send to the Secretary Treasurer of the Land Division Committee and attached any comments, staff reports(s) and Council resolutions/recommendations

6. Does the Municipality foresee demand for new municipal services? Yes ( ☐ ) No ( ☒ )

7. If so, is the Municipality prepared to provide those services? Yes ( ☐ ) No ( ☐ )

8. Does the Municipality wish the Committee to impose conditions? Yes ( ☒ ) No ( ☐ )

9. Does Council recommend the application? Yes ( ☒ ) No ( ☐ )

10. Does the municipality have other concerns that should be considered by the Committee?

See Conditions letter dated May 7, 2021



## Report to Council

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**REPORT NO.:** DS-21-23  
**DATE:** May 6, 2021  
**ATTACHMENT:** Report Photo, Application, Recommended Conditions  
**SUBJECT:** **Application for Consent to Sever of David & Mary Harder and Wayne Jolly, on behalf of David & Mary Harder and Wayne Jolly (Authorized Agent: David Roe)**  
**LOCATION:** South Part of Lot 35, Concession 4 (Geographic Township of Malahide) (6791 Richmond Road)

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### **Recommendation:**

**THAT Report No. DS-21-23 entitled “Application for Consent to Sever of David & Mary Harder and Wayne Jolly” be received;**

**AND THAT the Application for Consent to Sever of David & Mary Harder and Wayne Jolly, on behalf of David & Mary Harder and Wayne Jolly, relating to the property located at South Part of Lot 35, Concession 4, (Geographic Township of Malahide), and known municipally as 6791 Richmond Road, be supported for the reasons set out in this Report;**

**AND THAT this Report be forwarded to the Land Division Committee for its review and consideration.**

### **Background:**

The subject application for Consent to Sever (the “Application”) has been submitted by David Roe, authorized agent of David & Mary Harder and Wayne Jolly, in order to create one new residential parcel.

The Application relates to the property located at South Part of Lot 35, Concession 4, (Geographic Township of Malahide), and known municipally as 6791 Richmond Road.

The County Land Division Committee has scheduled a Public Hearing for this application to be considered on May 26, 2021.

## Comments/Analysis:

The subject property is approximately 3,624 square metres (0.89 acres) in area, and has approximately 53 metres (175 feet) of frontage along Richmond Road.

The subject property currently contains one building located at the rear/west of the property previously used (as understood by staff) as the “Calton Community Center” (referred herein as the “hall”), and previous to that as a school house in the late 1800s and into the 1900s. A gravel access and parking area is situated in front of the hall. The site contains a number of mature trees.

The Application proposes to create one new residential lot to the south of the hall, which will remain on the retained parcel.

The property was previously used for institutional-type purposes (hall rentals, etc.), however such uses have ceased under the current property owners.

### County of Elgin Official Plan

The subject property is designated “Tier 3 - Calton” on Schedule ‘A’, Land Use Plan. The subject property has no noted areas on Schedule ‘C’ (Aggregate and Petroleum Resources) or Appendix 1 (Environmental Resource Areas) of the County Official Plan.

In addition to the above, the subject property is identified as having frontage along a “County Collector” on Schedule ‘B’, “Transportation Plan”.

### Malahide Official Plan

The subject property is designated “Hamlet” on Schedule ‘A1’ (Land Use Plan). No areas are identified on Schedule ‘A2’ (Constraints Plan).

The Residential policies of Section 4 of the Official Plan applies to this development.

Although the hall is proposed to remain on the retained parcel, it is not identified as being historically-significant in the Malahide Official Plan.

The proposed development is in conformity with these policies.

### Malahide Zoning By-law No. 22-18

The subject property is within the “Hamlet Residential (HR) Zone” on Key Map M of Schedule “A” to the Township’s Zoning By-law No. 22-18.

Lots within the “Hamlet Residential (HR) Zone” require the following:

Hamlet Residential (HR) Zone	Lot to be Severed (new lot, “Parcel B” on Sketch))	Lot to be Retained (lot to contain the Hall, “Parcel A” on Sketch))
Minimum Lot Area: 1850 m <sup>2</sup>	1,673.9 m <sup>2</sup>	1,950.5 m <sup>2</sup>

<b>Hamlet Residential (HR) Zone</b>	<b>Lot to be Severed (new lot, “Parcel B” on Sketch))</b>	<b>Lot to be Retained (lot to contain the Hall, “Parcel A” on Sketch))</b>
<b>Minimum Lot Frontage:</b> 25 m	25 m	28.3 m
<b>Front Yard Depth:</b> 6m	Zoning requirements to be met with future construction of new dwelling.	Greater than 50 m
<b>Side Yard Width – Interior:</b> 2m		2.05 m
<b>Rear Yard Depth:</b> 7.5m		2.41 m
<b>Maximum Lot Coverage:</b> 30%		8%

### **General Comments**

The Development Services Staff has considered the merits of the subject application against applicable Official Plan policies and the Township’s Zoning By-law and recommends that the Council support the Application to the Land Division Committee.

The Development Services Staff has also considered comments provided by other internal departments. Notably, the Township’s Drainage Superintendent/Engineering Technologist has advised that a new or relocation of a municipal drain is required in accordance with the Drainage Act, RSO 1990. Given the property is on a County road, the Township’s Roads Department has no comments or concerns.

The Township Planner has also reviewed and generally has no concerns with the proposal, but does provide the following comments:

The Application notes that there will be a Minor Variance application required to deal with the non-complying rear yard of the hall, as well as the deficient lot area of the proposed severed parcel. Upon review, the Planner considers the existing deficient setback of the hall to be ‘existing’, and the subject severance will result in no further non-compliance (so, a Minor Variance for that component is not necessary). However, the Planner is of the opinion that a Minor Variance should be obtained for the proposed undersized ‘severed’ residential parcel.

The Planner also recommends that any and all portions of the existing gravel driveway and parking area, which encroaches over the proposed new lot line onto the proposed severed lot, should be replaced with topsoil and grass, and be setback on the retained parcel in accordance with the Zoning By-law requirement of Section 4.27 d), which requires no driveway to be closer than 1.0 metre to any shared lot line.

One additional item to consider (which exists regardless of the severance application), is that the Zoning By-law requires all accessory buildings (e.g. sheds, out-buildings) to be situated no closer to the road/front lot line than the dwelling. With the hall situated very close to the rear lot line, there may require a need for a future minor variance depending on where any future accessory building would be located.

### **Financial Implications to Budget:**


The full cost of the consent and associated rezoning process is at the expense of the Applicant and has no implications to the Township's Operating Budget.

## Relationship to Cultivating Malahide:

The Cultivating Malahide Integrated Community Sustainability Plan (ICSP) is based upon four pillars of sustainability: Our Land, Our Economy, Our Community, and Our Government.

One of the goals that supports the “Our Land” Strategic Pillar is “Promote growth in a responsible manner”. By promoting new development and directing growth to appropriate areas within the Township through its support of this proposal, the Council is achieving this goal.

Submitted by:	Reviewed by:
Allison Adams, Development Services Coordinator	Adam Betteridge, MCIP, RPP Director of Development Services (Planner)

Approved by:


**COUNTY OF ELGIN ROAD SYSTEM**

DATE: May 6, 2021 ELGIN COUNTY ROAD NO.: 43 – 6791 Richmond Road

TO: THE COUNTY OF ELGIN LAND DIVISION COMMITTEE

RE:

APPLICATION NO.: E 29-21

OWNER: David & Mary Harder, Wayne Jolly

PROPERTY: LOT NO. 35 CONCESSION: 4

REG'D PLAN: MUNICIPALITY: Malahide

The notice of the above application on the above premises has been received and I have the following comments to make:

- 1) Land for road widening is required .....  
*[Section 51 (25) of the Planning Act - That the owner dedicate lands along the frontage of the severed and retained lots/parcels up to m from the centreline of construction of to the County of Elgin for the purposes of road widening if the right of way is not already to that width, to the satisfaction of the County Engineer. All costs to be borne by the owner.*
- 2) A one-foot reserve is required along the N \_\_\_\_\_,  
S \_\_\_\_\_, E \_\_\_\_\_ and/or W \_\_\_\_\_ property line .....
- 3) Drainage pipes and/or catchbasin(s) are required .....
- 4) A Drainage Report is required under the Drainage Act \* (By Professional Engineer).....
- 5) A curb and gutter is required along the frontage .....
- 6) Direct Connection to a legal outlet for the severed lot is required - If an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited.....

X
- 7) Technical Reports .....
- 8) That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed parcel. All costs associated with this shall be borne by the owner.....

X
- 9) Lot Grading Plan is required for the severed lot.....

X
- 10) The County has no concerns.....
- 11) Not on County Road .....
- 12) Please provide me with a copy of your action on this application .....
- 13) Other...

Note: These lands are subject to County of Elgin By-Law No. 92-57, as amended by By-Law No. 96-45, and any amendments made thereto hereafter, being a by-law to regulate the construction or alteration of any entranceway, private roads or access to a County road.



BRIAN LIMA, P. ENG.  
DIRECTOR OF ENGINEERING SERVICES





**County of Elgin**  
450 Sunset Drive  
St. Thomas, Ontario  
N5R 5V1 Canada  
Phone: 519-631-1460  
Fax: 519-633-7661  
www.elgin-county.on.ca

APPLICATION FOR CONSENT PURSUANT TO SECTION 53 OF THE PLANNING ACT,  
1990, AS AMENDED.

**To:** Elgin County Land Division Committee  
**From:** Nancy Pasato, Manager of Planning  
**Date:** May 26, 2021  
**Application:** E 29-21

**Owner:**  
**David & Mary Harder, Wayne Jolly**  
6791 Richmond Road  
Aylmer, ON N5H 2H5

**Agent:**  
David Roe, Civic Planning Solutions Inc.  
599 Larch Street  
Delhi, ON N4R 3A7

**Location:** 6791 Richmond Road, legally described as CON 4 LOT 35, Township of Malahide.

**PROPOSAL**

The applicants propose to sever a parcel with a frontage of 25.0 metres (82.02 feet) along Richmond Road by a depth of 67.87 metres (222.67 feet) and an area of 0.17 hectares (0.42 acres) for future residential use. The owners are retaining 0.20 hectares (0.49 acres) proposed to remain in residential use.

**County of Elgin Official  
Plan**  
Settlement Area Tier 3

**Local Municipality Official  
Plan**  
Hamlet

**Local Municipality Zoning  
By-law**  
Hamlet Residential (HR)

**REVIEW & ANALYSIS:**

**Public and Agency Comments**

*Township of Malahide* - the Malahide Township Council has no objection to the Land Severance No E29/21 subject to the provided conditions.

*County Engineering* – no objections. Conditions 3, 4 & 5 regarding direct connection, a potential entrance permit and lot grading must be satisfied.

**Planning Act and Provincial Policy Statement**

In considering this application, staff must have regard to matters of Provincial Interest in accordance with Section 2 of the Planning Act (PA), and subdivision criteria in accordance with Section 51(24) of the PA.

The application shall also be consistent with the 2020 Provincial Policy Statement (PPS). Policy 1.1.3 (Settlement Areas) outlines that settlement areas including cities, towns, villages and hamlets, are to be the focus of growth and development within municipalities. Specifically, Policy 1.1.3.2 outlines that land use patterns within these settlement areas shall be based on densities and a mix of land uses which efficiently use land and resources.

The Applicant has indicated that the retained lands will maintain their current residential use. The proposed severed lands (0.17 hectares/0.42 acres) are currently vacant but are proposed to be used for future residential use, with a private well and septic system. The proposed retained lands (0.2 hectares/0.49 acres) contain an existing residence, accessory structure and private services. The size of both the severed and retained lots are adequate to support the existing and proposed use and private services, while being consistent with the size of the surrounding residential lots.

#### County of Elgin Official Plan

The settlement areas in the County are divided into three tiers based on their scale, function, and the level of services that exist in each settlement. The subject site is designated Settlement Area Tier 3 in the Elgin County Official Plan (OP). The third tier includes those settlement areas which are generally the smallest communities in the County, are predominately residential in function, and do not have any municipal services (i.e. services are provided by individual on-site water and sewage services). Limited development (including new lot creation) is permitted in these settlement areas given the absence of full municipal services.

As stated by the Applicant, the proposed severed lot will be used for future residential use and the retained lot will maintain its current residential use. Both proposed parcels are in keeping with the size and scale of development permitted for a third-tier settlement area.

#### Local Municipality Official Plan and Zoning By-law

The subject property is designated "Hamlet" on Schedule 'A1' (Land Use Plan) of the Malahide Official Plan. No areas are identified on Schedule 'A2' (Constraints Plan). The Residential policies of Section 4 of the Official Plan applies to this development. Although the hall is proposed to remain on the retained parcel, it is not identified as being historically-significant in the Malahide Official Plan. The proposed development is in conformity with these policies.

Additionally, the subject property is zoned "Hamlet Residential" by the Malahide Zoning By-law. There will be a Minor Variance application required to deal with the non-complying rear yard of the existing building/hall, as well as the deficient lot area of the proposed severed parcel. Upon review, the local municipality's Planner considers the existing deficient setback of the hall to be 'existing', and the subject severance will result in no further non-compliance (so, a Minor Variance for that component is not necessary). However, the Planner is of the opinion that a Minor Variance should be obtained for the proposed undersized 'severed' residential parcel.

#### RECOMMENDATION:

The application for consent is consistent with both the 2020 Provincial Policy Statement and complies with the County of Elgin Official Plan regarding lot creation in settlement areas. As such, planning staff is of the opinion that the application is acceptable from a planning perspective and recommends approval subject to the following conditions:

1. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
2. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed.
3. Direct Connection to a legal outlet for the severed lot is required – if an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited.
4. That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed parcel. All costs associated shall be borne by the owner.
5. Lot Grading Plan is required for the severed lot.

Additionally, it is recommended that the following conditions from the Township of Malahide be included as conditions for consent:

1. That the applicant initiates and assume, if required, all engineering and construction costs associated with construction of a new Municipal drain, or, the relocation of Municipal drain. To be commenced in accordance with the Drainage Act, RSO 1990. All costs to be paid in full to the Township prior to the condition being deemed fulfilled. If a lot grading plan is required as a condition of severance, it should be done in conjunction with the new Municipal drain or relocation of Municipal Drain.
2. That all outstanding work orders or by-law enforcement issues be resolved to the satisfaction of the Chief Building Official prior to the condition being deemed fulfilled.
3. That the applicants initiate and assume all planning costs associated with the required Minor Variance application (to address the undersized lot area of the severed parcel), with such cost to be paid in full to the Township and that the required process be successfully completed prior to the condition being deemed fulfilled.
4. Confirmation that a private sewage system is confined entirely within the boundaries of the retained parcel. That system shall be in conformance with all required setbacks from lot lines prior to the condition being deemed fulfilled.
5. The owner has the necessary review and lot assessment conducted to ensure that it is suitable for the installation of a sewage disposal system and payment of necessary fees per lot.
6. That the necessary deeds, transfers and charges for certificates and/or instruments necessary for registration be submitted in triplicate prior to certification all of which are to be fully executed.
7. That all applicable property taxes, municipal fees and charges be paid to the Township prior to the stamping of the deeds.
8. That an electronic version of the reference plan be submitted to the satisfaction of the Municipality.
9. That the applicant is responsible to apply and pay all fees to the Township with respect to Civic Addressing Numbers/Signage for the severed and retained portions of property prior to the condition being deemed fulfilled.
10. That the portions of the existing gravel driveway and parking area which encroach onto the newly created parcel (to be severed) be replaced with topsoil and grass, and



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be setback on the retained parcel by a minimum of 1.0 metre and in accordance with Section 4.27 of the Township of Malahide Zoning By-law No. 22-18, as amended.



**CORPORATION OF THE COUNTY OF ELGIN  
NOTICE OF APPLICATION FOR CONSENT**

**APPLICATION NO. E 30-21**

**LOTS 8, 9, 10 & PART LOT 11  
TOWNSHIP OF SOUTHWOLD  
MUNICIPAL ADDRESS: 13662 ROUTH ROAD**

**TAKE NOTICE** that an application has been made by **2245885 Ontario Inc.** 10401 Westminster Dr, London ON N6P 1P3 for a consent pursuant to Section 53 of the Planning Act, 1990, as amended, to sever lands municipally known as 13662 Routh Road, Township of Southwold.

The applicants propose to sever a parcel with a frontage of 45.8 metres (150.26 feet) along Routh Road by a depth of 53.85 metres (176.67 feet) and an area of 0.25 hectares (0.62 acres), containing an existing house, for non-farm residential use. The owners are retaining 99.8 hectares (246.61 acres) proposed to remain in agricultural use.

The location of the property is shown on the Key Map attached.

**ADDITIONAL INFORMATION** regarding the application is available for inspection daily, Monday to Friday, between 8:30 A.M. and 4:30 P.M., at the County Municipal Offices, 450 Sunset Drive, St. Thomas or at a Public Hearing to be held on:

**WEDNESDAY May 26, 2021 AT 10:05 AM.  
BY VIDEO/TELEPHONE CONFERENCE OR IN PERSON AT  
Council Chambers, County Municipal Offices, 450 Sunset Drive, St. Thomas**

Any person or public body may attend the Public Hearing and/or make written or verbal representation either in support of, or in opposition to the proposed consent.

**PLEASE NOTE: YOUR PARTICIPATION BY VIDEO/TELECONFERENCE or TELEPHONE IS PREFERRED.**

**DUE TO PROVINCIAL ORDERS, ATTENDANCE IN PERSON MAY BE RESTRICTED. PLEASE CONTACT [npasato@elgin.ca](mailto:npasato@elgin.ca) AT LEAST 24 HOURS BEFORE THE MEETING TO ARRANGE FOR VIDEO/TELECONFERENCE OR TELEPHONE INFORMATION, OR TO CONFIRM IF IN PERSON ATTENDANCE IS POSSIBLE.**

If you wish to be notified of the decision of the Land Division Committee in respect of the proposed consent, you must submit a written request to the Land Division Committee. This will also entitle you to be advised of any appeal to the Local Planning Appeal Tribunal.

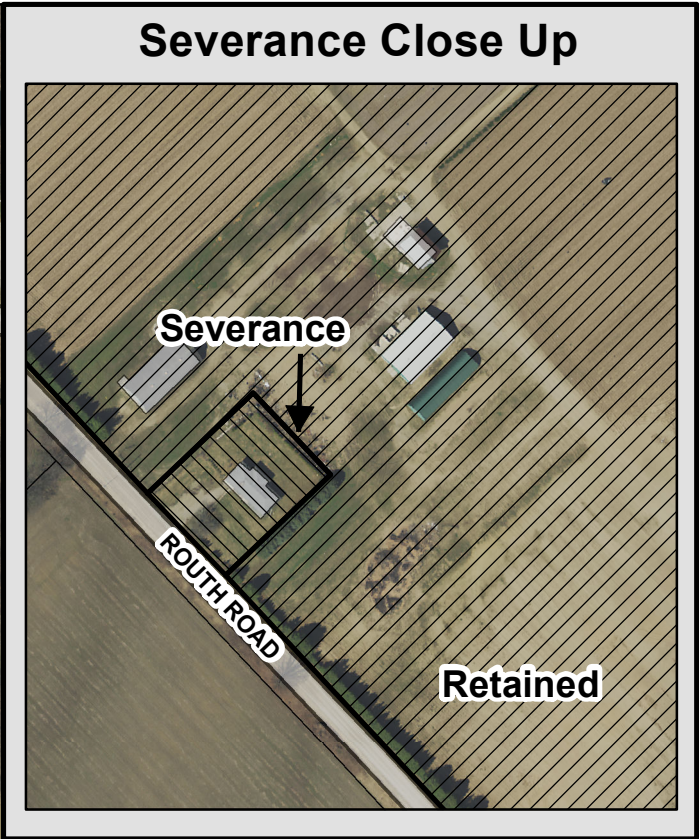
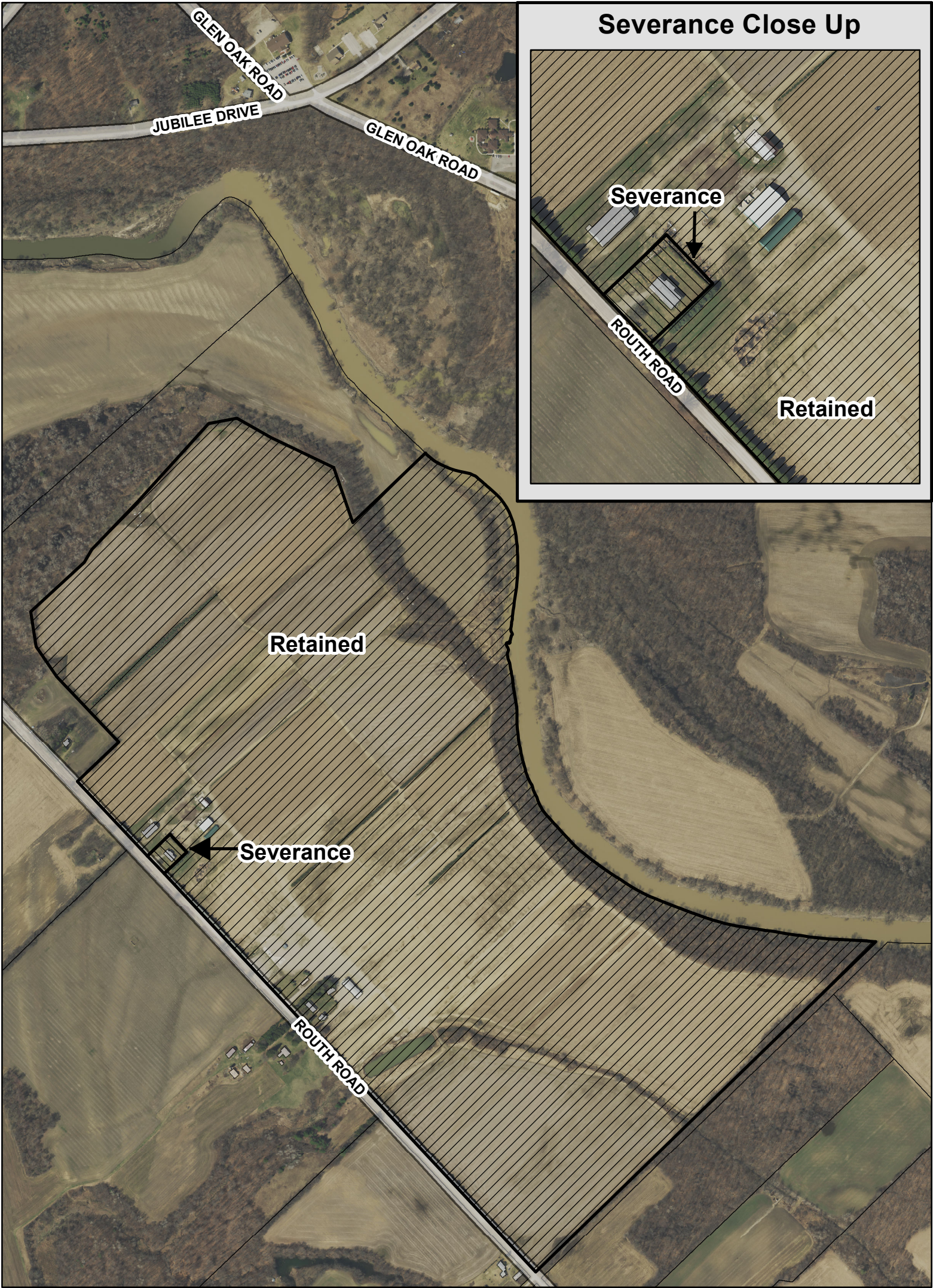
If a person or public body that files an appeal of a decision of the Land Division Committee in respect of the proposed consent does not make written or oral submissions to the Land Division Committee before it gives or refuses to give a provisional consent, the Local Planning Appeal Tribunal may dismiss the appeal.

Dated at the Municipality of Central Elgin this 5<sup>th</sup> day of May, 2021.

Nancy Pasato  
Acting Secretary-Treasurer  
Land Division Committee

**County of Elgin  
Planning Department**  
450 Sunset Drive  
St. Thomas, Ontario  
N5R 5V1 Canada  
Phone: 519-631-1460  
Fax: 519-631-4549





### Location Map

Subject Site: 13524-13662 Routh Road  
File Number: E30-2021  
Owner: 2245885 Ontario Inc.  
Planner: Nancy Pasato  
Created By: AL  
Date: 05/05/2021

The Corporation of the County Elgin  
Prepared By: Planning and Development

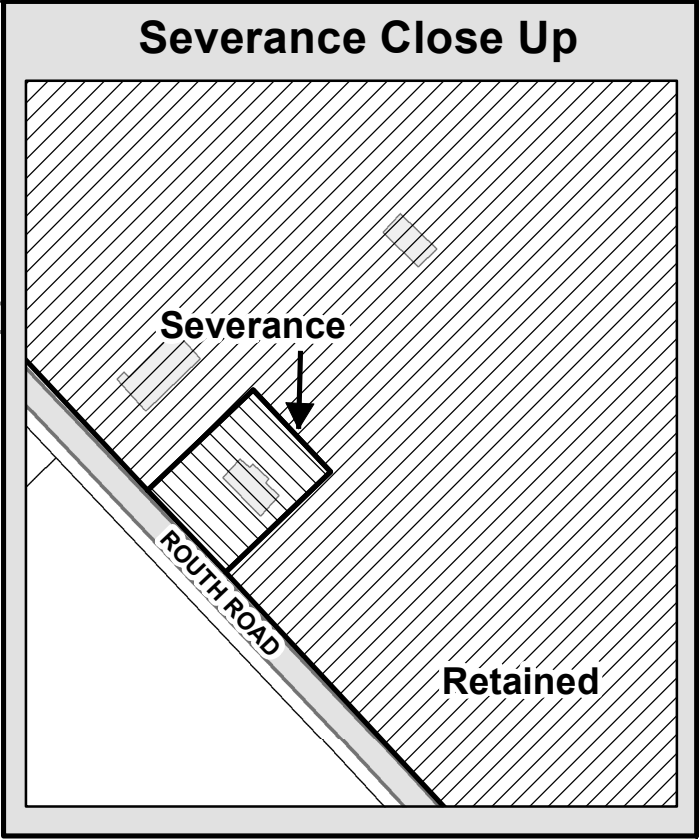
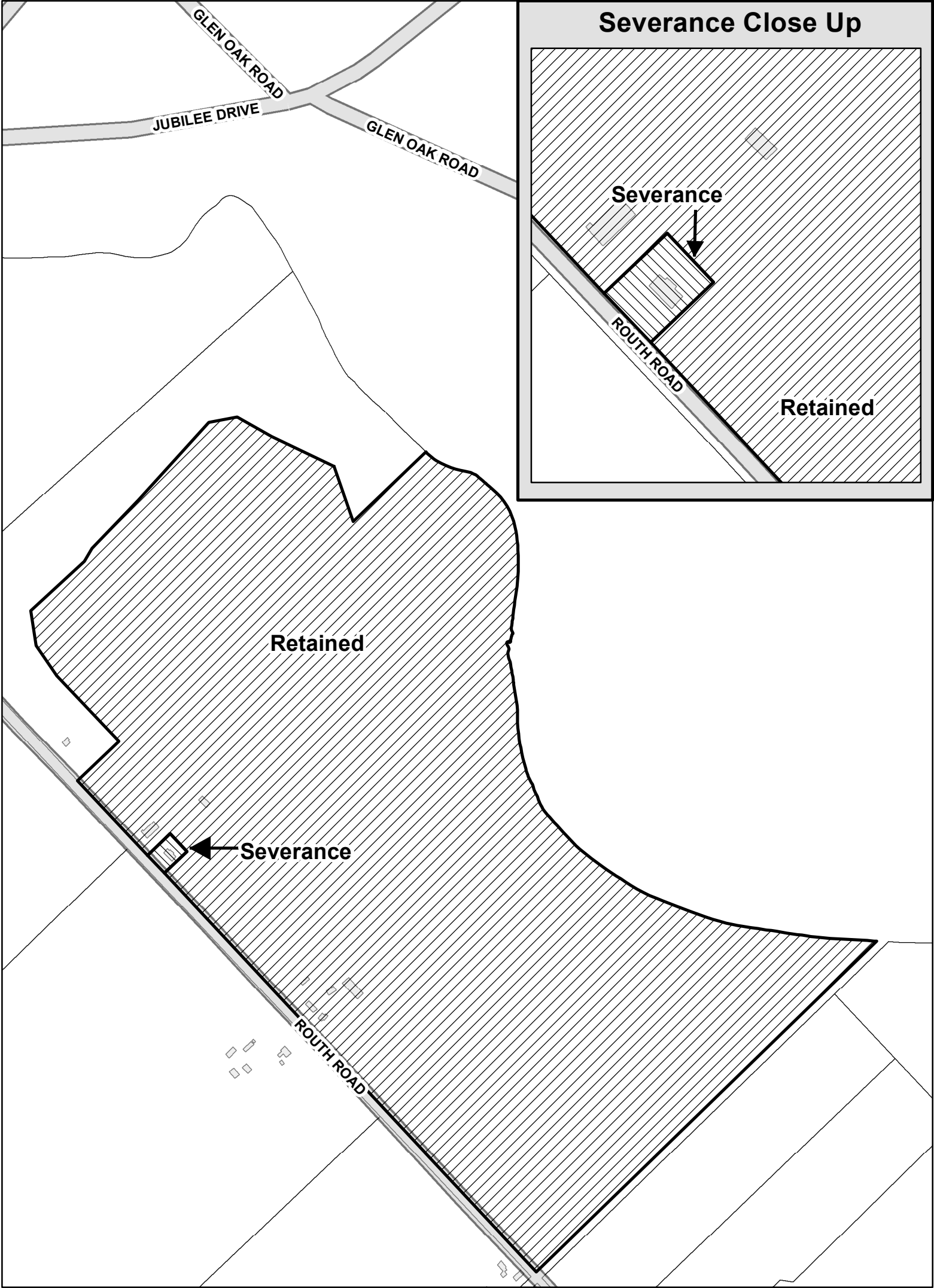
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Scale 1:8,004

### Legend

- Subject Site
- Severance
- Retained
- Elgin Road Network
- Buildings





### Location Map

Subject Site: 13524-13662 Routh Road  
File Number: E30-2021  
Owner: 2245885 Ontario Inc.  
Planner: Nancy Pasato  
Created By: AL  
Date: 05/05/2021

The Corporation of the County Elgin  
Prepared By: Planning and Development

N

Meters

Scale 1:8,004

### Legend

- Subject Site
- Severance
- Retained
- Elgin Road Network
- Buildings

## Dawn Wittland-Graham

---

**From:** Nancy Pasato  
**Sent:** May 17, 2021 3:42 PM  
**To:** Dawn Wittland-Graham; Aisling Lavery  
**Subject:** FW: Application E 30-21 - 13662 Routh Road

Hi All – FYI. For the agenda package and our county comments. Thanks.

**Nancy Pasato**  
*Manager of Planning*



450 Sunset Drive  
St. Thomas, ON. N5R 5V1  
(519) 631-1460 ext.126  
[www.elgincounty.ca](http://www.elgincounty.ca)

---

**From:** Helen Button <helenbutton@gunn.on.ca>  
**Sent:** May 17, 2021 3:40 PM  
**To:** Nancy Pasato <npasato@ELGIN.ca>  
**Cc:** Bryan Pearce <planning@westelgin.net>  
**Subject:** Application E 30-21 - 13662 Routh Road

Good afternoon Nancy,

Further to our call this morning, this will confirm the applicants now propose to install a new well on the proposed severed lot as a condition of consent, rather than bringing an application for a well easement.

As discussed, I believe this solution is preferable to Council as well and should allow us to proceed on May 26<sup>th</sup>.

Many thanks for your attention to this.

**Helen R. Button**  
**Associate Lawyer**  
Gunn & Associates  
o/b Douglas George Gunn Professional Corporation  
108 Centre Street  
St. Thomas, ON N5R 2Z7  
Phone: 519-631-0700  
Fax: 519-631-1468  
[helenbutton@gunn.on.ca](mailto:helenbutton@gunn.on.ca)

**Gunn & Associates has not experienced any significant disruptions of essential business operations, however, during these challenging times we have decided to implement particular policies and procedures to respond to COVID-19 so that we will be in a position to serve your legal needs. We are reducing our personnel working in the office, have closed our office to the public and are conducting meetings via telephone or videoconference. Staff will continue to have access to email and be in a position to pick up**



**voice messages. We would appreciate receiving any correspondence or documentation via email so that we will be in a position to respond in a timely manner.**

**We wish you safety and health during this difficult situation.**

WARNING: From time to time, our spam scanners eliminate legitimate email from clients. If your email contains important instructions, please ensure that we acknowledge receipt of those instructions.

This communication is directed to you in confidence and solely to the person(s) listed above, and may not otherwise be distributed, copied or disclosed. The contents of this email may also be subject to solicitor-client privilege, and all rights to that privilege are expressly claimed and not waived. If you have received this email in error, please notify us immediately by telephone or by return email and delete this communication and any copy immediately. Thank you for your assistance.

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## TOWNSHIP OF SOUTHWOLD

35663 Fingal Line  
Fingal, ON N0L 1K0  
Phone : (519) 769-2010  
Fax : (519) 769-2837  
E-mail : [planning@southwold.ca](mailto:planning@southwold.ca)

---

VIA E-MAIL ONLY

May 20, 2021

County of Elgin  
c/o Nancy Pasato, Manager of Planning  
450 Sunset Drive  
St. Thomas, Ontario N5R 5V1  
E-mail: [npasato@elgin.ca](mailto:npasato@elgin.ca)

Ms. Pasato:

**RE: Township of Southwold Severance (Consent) Application - Comments to the County of Elgin**  
**County File Numbers: E30-21**  
**Legal Description: Lots 8, 9, 10 part of Lot 11 Plan 41**  
**Civic Address: 13662 Routh Road**

Please be advised that the Township of Southwold have reviewed the above noted application, at the May 10, 2021 Council Meeting and passed the following resolution:

**Council Resolution 2021- 159**

**THAT** Council of the Township of Southwold receive Report PLA 2021-17 regarding Severance Application E30-21 – Comments to the County of Elgin;

**AND THAT** the Council of the Township of Southwold recommends approval of the Land Division Committee of County of Elgin for the severance application, File E30-21, subject to the Lower-Tier Municipal conditions in Appendix Two of Report PLA 2021-17;

**AND THAT** added as an additional condition, the Applicant have a qualified contractor relocate the existing hydro service supplying the existing dwelling from the proposed retained parcel to the proposed severed parcel, at their sole cost and expense, to the satisfaction and clearance of the Municipality;

**AND FURTHER THAT** Council of the Township of Southwold directs Administration to provide Report PLA 2021-17 as Municipal comments to the County of Elgin.

**CARRIED**

Please find attached the following documentation, as it relates to the above noted files:

1. Planning Staff Report PLA 2021-17: Severance Application E30-21 – Comments to County of Elgin, dated May 10, 2021; and
2. E30-21 Municipal Appraisal Form.

General discussion occurred at Township Council that ideally they would prefer a new well be located on the severed parcel to eliminate the need for an easement thereto. As a result of follow-up discussions with the proponent, they have agreed to install a new well on the severed parcel as confirmed on May 17, 2021. Therefore, the Township would suggest modifications to the Township conditions as detailed below in this letter.

Therefore, the recommended Lower-Tier Municipal conditions are the following:

1. That the Applicant meet all the requirements, financial and otherwise of the Municipality, to the satisfaction and clearance of the Municipality.
2. That the Applicant provides a description of the lands to be severed which can be registered in the Land Registry Office, to the satisfaction and clearance of the Municipality.
3. That the Applicant's Solicitor provides an undertaking to the Municipality, to provide a copy of the registered deed for the severed parcel once the transaction has occurred to the Municipality.
4. That the Applicant successfully apply to the Municipality for a Zoning By-law Amendment to rezone the retained and severed parcel and having such rezoning of the Zoning By-law come into full force and effect pursuant to the Planning Act, to the satisfaction and clearance of the Municipality.
5. That the Applicant remove the existing septic system and install a new septic system on the severed parcel, to the satisfaction and clearance of the Municipality.
6. That the Applicant obtain a change of use permit for the existing barns that had capability of housing livestock, to ensure all capability of housing livestock has been removed, to the satisfaction and clearance of the Municipality.
7. That the Applicant have a qualified contractor install a new water well and waterline on the proposed severed parcel to supply water to the existing dwelling, and decommission the existing water well and water line or relocate the existing water line to service the proposed retained parcel, to the satisfaction and clearance of the Municipality.
8. That the Applicant have a qualified contractor relocate the existing hydro service supplying the existing dwelling from the proposed retained parcel to the proposed

severed parcel, at their sole cost and expense, to the satisfaction and clearance of the Municipality.

9. That the Applicant have a drainage reapportionment completed pursuant to the *Drainage Act*, to the satisfaction and clearance of the Municipality.
10. That the Applicant provide a Mutual Drain Agreement pursuant to the Drainage Act, to the satisfaction and clearance of the Municipality.
11. That prior the final approval of the County, the County is advised in writing by the Municipality how the above-noted conditions have been satisfied.
12. That all conditions noted above shall be fulfilled within one year of the Notice of Decision, so that the County of Elgin is authorized to issue the Certificate of Consent pursuant to Section 53(42) of the *Planning Act*.

Should you have any questions or concerns, please do not hesitate to contact this Planning Office.

Yours truly,

*Bryan Pearce*

Bryan Pearce, HBA, CPT, MCIP, RPP  
Planner  
Township of Southwold  
35663 Fingal Line  
Fingal, Ontario N0L 1K0  
Office: 519-769-2010  
Cell: 519-280-1028  
Email: [planning@southwold.ca](mailto:planning@southwold.ca)

Encl.

Cc:  
Applicant: Helen Button, Solicitor, Gunn & Associates, (Email: [helenbutton@gunn.on.ca](mailto:helenbutton@gunn.on.ca))



## TOWNSHIP OF SOUTHWOLD

### PLANNING REPORT

**Application:** Proposed Severance

**Report No.:** PLA 2021-17

**File No:** E 30-21

**Date:** May 10, 2021

**TO:** Mayor and Council of the Township of Southwold

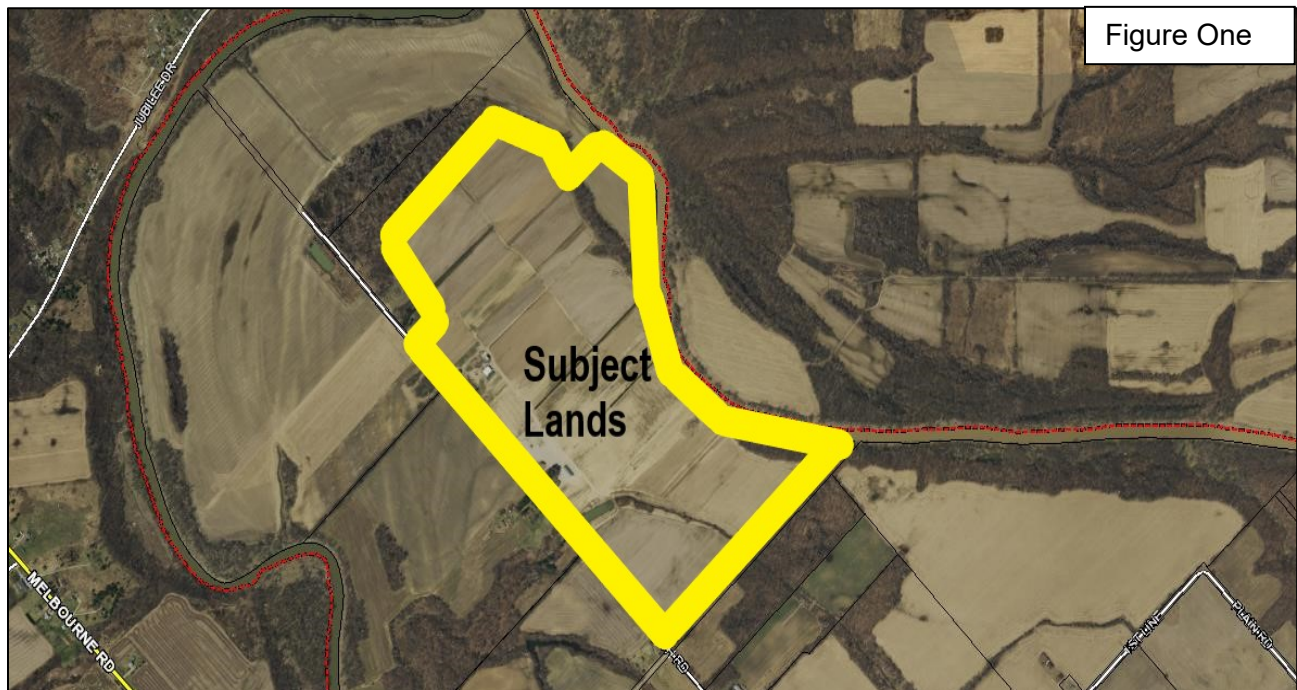
**FROM:** Bryan Pearce, HBA, CPT, MCIP, RPP  
Planner

**SUBJECT:** Severance Application E30-21 – Comments to the County of Elgin

#### REASONS FOR AND NATURE OF THE APPLICATION:

The proposal is to create a surplus farm dwelling lot that is surplus to the farm operations.

The subject lands, shown on Figure One, are legally described as Lots 8 to 10 and Part Lot 11, Plan 41; Part 1, Reference Plan 11R-3264 and known municipally as 13524 and 13662 Routh Road. They are located on the east side of Routh Road, approximately 1.2 kilometres north of 1<sup>st</sup> Line near the Thames River. The subject lands have frontage and access on Routh Road.



The Severance (Consent) Application was submitted by Helen Button, Solicitor, Gunn and Associates, as the Agent on behalf of the owner, 2245885 Ontario Inc, being owned by John Donald McFarlane and Michael McFarlane.

As Council is aware, the Applicant has recently obtained conditional approval on Consent E5-21, to sever the 0.306 hectare (0.76 acre) parcel, as a surplus farm dwelling for the dwelling municipally addressed as 13524 Routh Road. The Applicant is currently fulfilling conditions of approval of the severance.

Subject to completion of the E5-21 lot creation, the approximate 99.7 hectares (246.5 acres) farm parcel has 2 habitable existing residences, five barns and one detached shed. The two existing dwellings are currently serviced with privately owned and operated individual water well and a privately owned and operated individual septic system. The lands are under cultivation on the proposed retained parcel. The predominant land use in the area is cash crop agriculture and non-farm residential.

## **BACKGROUND INFORMATION:**

The proposal is to sever 2,466 square metre (0.61 acre) parcel with a depth of 53.85 metre (176.67 feet) and frontage of 45.8 metres (150.26 feet) with a habitable existing residence (13662 Routh Road). There is an existing water cistern (not used) located at the rear of the severed parcel and the water well is located beyond the proposed rear lot line of the severed parcel that services the existing dwelling for domestic water supply. The existing private septic system located on the southerly side yard of the severed parcel and within the retained parcel – as such a replacement of the septic system is proposed within the front yard of the existing dwelling.

The proposed retained parcel will have an area of 99.5 hectares (246.6 acres) with an irregular depth of 828.1 metres (2,716.9 feet) and frontage of 1,146.8 metres (3,762.5 feet) along Routh Road, that has an existing dwelling, five barns and detached shed with no services and a separate entrance access onto Routh Road.

The severance sketches are attached to this report as Appendix One for reference purposes.

The Elgin County Application for Consent states the farm owner has declared the residence will be surplus to the needs of their farming operation, with other farm land holdings with the principal residence of the owners located in the City of London.

## **PLANNING POLICY REVIEW:**

Planning authorities must have regard to matters of Provincial interest, the criteria of the *Planning Act*, be consistent with the Provincial Policy Statement (PPS) and does not conflict with Provincial Plans. Within the Township of Southwold, they must also make decisions that conform to the County of Elgin Official Plan (CEOP) and Township of Southwold Official Plan (OP) and make decisions that represent good land use planning.

With regard to this proposal involving severances, the Planning Authority is the County of Elgin Land Division Committee, wherein the Municipality provides agency comments to the County of Elgin as part of their decision-making process.

### **PPS**

Lot creation in agricultural areas is permitted for a residence surplus to a farming operation because of farm consolidation, provided that the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and the planning authority

ensures that new residential dwellings are prohibited on any vacant remnant parcel of farmland created by the severance, in accordance with Section 2.3.4.1(c) of the PPS. New land uses, including the creation of lots and new or expanding livestock facilities shall comply with the minimum distance separation formulae, in accordance with Section 2.3.3.3 of the PPS. The severed parcel is limited in area to accommodate the existing infrastructure associated with the existing dwelling; and the Applicant notes that there are livestock barns within 750 metres of the subject lands, as concurred by Planning Staff, but MDS-1 is exempt on the surrounding lands as per Guideline 9 of the MDS Guidelines, as there is no specific policies contained in the OP requiring this aspect and the existing livestock capabilities have been removed from the existing barns on the retained parcel.

The northwestern, northeastern and southeastern portion of the proposed retained parcel is within the 120 metre adjacent lands to the significant woodland, as well as the significant woodlands on the property and properties to the northwest and southeast. Section 2.1 of the PPS polices states that development and site alteration in significant woodlands or on adjacent lands is not permitted unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions, generally through an Environmental Impact Study (EIS). Being that no development is proposed on the retained parcel at this time, no EIS would be required and would be evaluated on time of building permit for zoning compliance.

Section 3.1 of the PPS restricts development within Natural Hazard lands. The Natural Hazard lands are associated with the Thames River adjacent to the property and the Howe Drain transversing through the southwest portion of the proposed severed parcel of the property and no development is proposed with this Zoning By-law Amendment in this portion of the property.

This proposal appears to be consistent with the PPS.

#### CEOP

The subject lands are designated Agricultural Area on Schedule 'A' Land Use in the CEOP. A portion of the proposed retained parcel is within Woodlands as indicated on Appendix #1 Natural Heritage Features and Areas in the CEOP.

Section E1.2.3.4 b) of the CEOP permits the creation of new lots provided the local Official Plan supports their creation and if the lot is to be created to accommodate a habitable residence that has become surplus to a farming operation as a result of a farm consolidation provided that the development of a new residential use is prohibited on any retained parcel of farmland created by the consent to sever. The residence to be severed is habitable and is surplus to the owner's farming operations. The proposed severed parcel meets the MDS I setbacks as the barns are decommissioned from capabilities of housing livestock. The residence is connected to the private on-site water well and the septic report that was submitted with the application states the septic system needs to be replaced. A condition to replace the septic system is recommended.

Section D1.2 Natural Heritage contains policies pertaining to significant woodlands. Section D1.2.6 states development and site alteration are not permitted in a significant woodland or on adjacent lands unless an EIS has been completed, demonstrating there will be no negative impact to the natural heritage features. Lastly, Section D1.2.7 Adjacent Lands states development and site alteration within 120 metres of a significant woodland shall not proceed unless an EIS has been completed, demonstrating there will be no negative impact to the natural heritage features. Being that no development is proposed on this portion of the retained parcel at this time, no EIS would be required and would be evaluated on time of building permit for zoning compliance.

Section D3.3 Development in a Floodplain policies generally restricts development. The Natural Hazard lands are associated with the Thames River adjacent to the property and the Howe Drain transversing through the southwest portion of the proposed severed parcel of the property and no development is proposed with this consent and in this portion of the property.

Therefore, this proposal appears to conform to the CEOP.

#### OP

The subject lands are designated Agricultural on Schedule 'A' Land Use in the OP. The Woodlands on Schedule 'B' overlay apply to a portion of the proposed retained parcel and the Hazard Lands on Schedule 'B-1' overlay apply to a portion of the proposed retained parcel.

Section 4.1 of the OP contains Agricultural land use policies in which agricultural uses and limited residential uses are permitted.

Section 6.8.6(e) Agricultural Consent policies for residences surplus to the needs of a farm operation state land severances in the Agricultural Area may be permitted for a habitable farm dwelling made surplus to the needs of a farm operation, as a result of farm consolidation, subject to the following conditions:

- i) the retained farm parcel will be zoned so as to prohibit the construction of any additional dwellings;
- ii) the non-farm parcel will be zoned to recognize the non-farm residential use;
- iii) Minimum Distance Separation I provisions can be met.

The proposed severance application demonstrates that the residence is surplus to the farm owner's farming operation. There are livestock operations within the 750 metres, as documented in the application, but MDS-I is exempt for surplus farm dwellings on the adjacent lands since there is no specific policies within the OP, as per Guideline 9 of the MDS Guideline and the existing barns on the proposed retained parcel have removed their capabilities of housing livestock, as documented in the application submission.

Section 5.7.1 of the OP, Sanitary Sewage and Water Services policies require that existing sewage and water services be adequate. The existing water well has a water sample test and demonstrated that it is potable for consumption and the existing septic system is over the proposed lot line and needs to be replaced. As contained in their application submission.

Section 2.1 of the OP, Natural Heritage Features and Areas and Hazard Lands prohibits buildings, structures, and alteration to lands designated Hazard Lands. Section 2.2 Natural Heritage Features and Areas states development and site alteration within a significant woodland and within 120 metres of the adjacent lands is subject to the EIS demonstrating no negative impacts to the feature and its ecological function. No buildings and/or structures are within the Significant Natural Features overlay and Hazard Lands overlay and no development is proposed on the proposed severed and retained parcels.

Therefore, this proposal appears to conform to the OP.

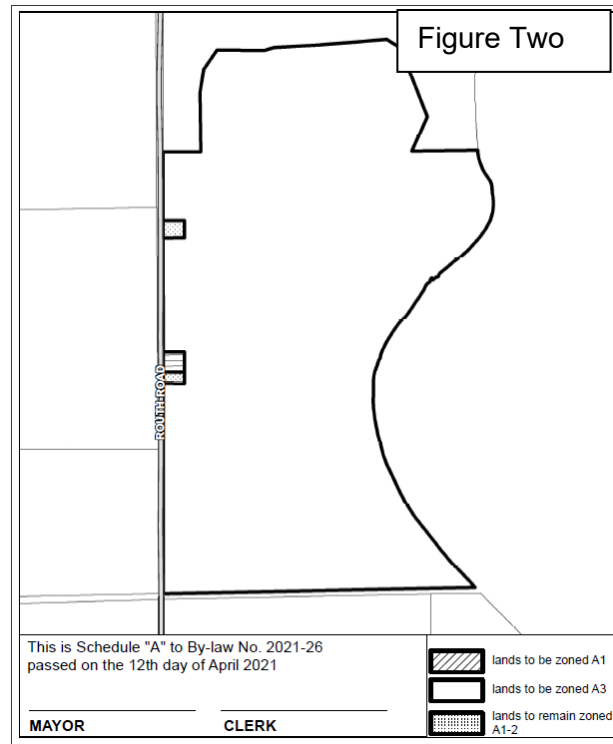
#### Township of Southwold Comprehensive Zoning By-Law 2011-14 (ZBL)

The subject lands are zoned Agricultural 1 Special Provision 2 (A1-2) and Agricultural 3 (A3) Zone and a portion of the lands within the Natural Areas and Adjacent Lands Constraint and



Conservation Authority Regulations Constraint, as shown in the ZBL on Schedule 'A' Map 2, as depicted in Figure Two to the right.

The A1-2 Zone permitted uses includes agricultural use and single detached dwelling, with Special Provision 2 permitting additional uses, being additional dwellings existing on the date of the passing of the By-law. The regulations for a lot legally used for a single detached dwelling created by consent are subject to reduced lot requirements. The A1 Zone Subsection 5.2 (g) Reduced Lot Requirements regulates lots created for single detached dwellings surplus to farm operations. The minimum lot area permitted is 1,858.0 square metres (20,000.0 square metres). The maximum lot area permitted is 6,000 square metres (1.48 acres). The minimum lot frontage is 30.0 metres (98.0 feet).



The A3 Zone prohibits dwellings and was recently rezoned part of the conditions for E5-21, through amending By-law 2021-26.

The proposed severed parcel area of approximately 2,466 square metre (0.61 acre) parcel with a frontage of 45.8 metres (150.26 feet), complying with the Subsection 5.2 (g) requirements of the ZBL. Special Provision 2 would be required to be removed from the zoning, as the lot creation would implement one dwelling per lot and would recommend that the severed parcel be rezoned to the A1 Zone, as a condition of approval.

The proposed retained parcel would need to be rezoned to implement the proposed lot creation, either by:

- removing Special Provision 2 from the existing dwelling and amenity area to be within the A1 Zone since one dwelling per lot would apply, should the proponent wish to further sever the existing dwelling as surplus to the farm operation; or alternatively,
- rezone the retained parcel to the A1 Zone, since one dwelling is permitted per lot, should the proponent wish to retain the dwelling with the remanent farmlands, as it is already freezing the development potential of a dwelling since one exists.

In conversations with the Applicant, they noted there is no intent to sever the third dwelling off of the farmlands at this time. Therefore, it is recommended that the retained parcel be rezoned with one of the two options noted above, that can be further discussed with the Township prior to submission.

Section 3.4 Environmental Protection Zones, Natural Areas and Adjacent Lands states no new buildings or structures are permitted in the Natural Area and Adjacent Lands constraint area without the completion of an EIS, prepared by a qualified environmental consultant that states no negative impacts will occur to the Natural Areas. Since no development is proposed as a result of this severance, an EIS is not required.

Section 3.11 Hazard Lands states no permanent buildings or structures with the exception of those designated, used or intended for flood or erosion control purposes shall be erected or used on lands which exhibit a hazardous condition unless a permit has been obtained by the applicable Conservation Authority. No development is proposed within this portion of the retained parcel, within the hazard lands.

Therefore, it would appear that the proposal would comply with the ZBL, provided a Zoning By-law Amendment was obtained for the severed and retained parcels, that can be addressed through a condition of the consent application.

#### **STAFF COMMENTS:**

The proposed severance application was circulated to Township staff for comment. The following comments were submitted:

##### Building

Building Department noted the following:

- Removal of the existing septic system and installation of the new septic system is required
- The barns that housed livestock will require a change of use permit.
- Acknowledged the water test of the well was satisfactory.

Planning Staff notes that this can be addressed as a condition of approval for the removal of the existing septic system and installation of the new septic system; and obtaining a change of use permits for the former livestock buildings.

##### Drainage

Drainage Department noted the following:

- The subject lands would be in the drainage catchment of Howe Drain;
- Drainage Reassessment required; and
- Mutual Drain Agreement required.

The *Drainage Act* provides a legal procedure by which an "area requiring drainage" may have an outlet drain constructed to dispose of excess water. The drainage work is initiated by interested individuals within an "area requiring drainage" who will benefit from the construction of the drain, therefore with the proposed lot creation, a reassessment would be required.

Mutual Drain Agreements are drainage systems constructed, improved, financed and maintained through an agreement between two or more property owners. These drains are authorized under section 2 of the *Drainage Act*. Mutual Agreement drains are private drainage systems – there is usually no involvement of the local municipality or any government agency, unless they are party to the agreement as a property owner.

Planning Staff noted that this can be addressed as a condition of approval for reassessment process and mutual drain agreement.

At the time of submission of this report, no other comments or concerns were received from Administration.

## **ADDITIONAL COMMENTS:**

Administration recommends that as a condition of approval of the consent that the Applicant meet all the requirements, financial and otherwise of the Municipality, to the satisfaction and clearance of the Municipality.

Further, Administration recommends that as a condition of approval of the consent that the Applicant provides a description of the lands to be severed which can be registered in the Land Registry Office, to the satisfaction and clearance of the Municipality.

Further, Administration recommends that as a condition of approval of the consent that the Applicant's Solicitor provides an undertaking to the Municipality, to provide a copy of the registered deed for the severed parcel once the transaction has occurred to the Municipality.

Further, Administration recommends that as a condition of approval of the consent that the Applicant successfully apply to the Municipality for a Zoning By-law Amendment to rezone the retained and severed parcel and having such rezoning of the Zoning By-law come into full force and effect pursuant to the Planning Act, to the satisfaction and clearance of the Municipality. This is further detailed above in the review of the ZBL.

Further, Administration recommends that as a condition of approval of the consent that the Applicant remove the existing septic system and install a new septic system on the severed parcel, to the satisfaction and clearance of the Municipality. This is further detailed above in the Building Department comments. It is noted that the Applicant provided this with the planning application in a letter from Steve Timmermans of Timmermans Drainage and Excavating, dated October 25, 2020 that verified that a new leaching bed would be required to site locate it on the severed parcel, with the tank being 3600 litres and a non-existent bed on the property at the day of inspection.

Further, Administration recommends that as a condition of approval of the consent that the Applicant obtain a change of use permit for the existing barns that had capability of housing livestock, to ensure all capability of housing livestock has been removed, to the satisfaction and clearance of the Municipality. This is further detailed above in the Building Department comments.

Further, Administration recommends that as a condition of approval of the consent that the Applicant provide an easement agreement between the parties for the private water well and waterline that services the severed parcel's dwelling for the operation, maintenance, repair and replacement for the dominant tenement of the severed parcel over the servient tenement of the retained parcel, that is in compliance with the *Planning Act*, to the satisfaction and clearance of the Municipality. This easement will allow for the continued use of the water well and waterline on the retained parcel for the dwelling on the severed parcel for less than 21 years to be in compliance with the *Planning Act*, in which at that time a new well would need to be installed on severed parcel for the dwelling or enter in a new easement agreement between the owners at the time.

Further, Administration recommends that as a condition of approval of the consent that the Applicant have a drainage reapportionment completed pursuant to the *Drainage Act*, to the satisfaction and clearance of the Municipality. This is further detailed above in the Drainage Department comments.

Further, Administration recommends that as a condition of approval of the consent that the Applicant provide a Mutual Drain Agreement pursuant to the *Drainage Act*, to the satisfaction and clearance of the Municipality. This is further detailed above in the Drainage Department comments.

Further, Administration recommends that as a condition of approval of the consent that prior the final approval of the County, the County is advised in writing by the Municipality how the above-noted conditions have been satisfied. This will require the Applicant to submit to the Municipality a request for clearance letter, providing documentation on how the above noted conditions have been fulfilled, for the Municipality to provide it to the County of Elgin, as the approval authority.

Further, Administration recommends that as a condition of approval of the consent that all conditions noted above shall be fulfilled within one year of the Notice of Decision, so that the County of Elgin is authorized to issue the Certificate of Consent pursuant to Section 53(42) of the *Planning Act*.

## **SUMMARY/CONCLUSION:**

Therefore, it is Planning Staff's opinion that the proposed surplus farm dwelling lot creation consent, would appear to be consistent with the PPS, conforms to the CEOP and conforms to the OP, complies with the ZBL (subject to relief); and that Council recommends to the County of Elgin that the consent be approved, subject to the lower-tier municipal conditions listed in this report.

The County of Elgin, as the Planning Approval Authority, will have to review the application accordingly against the planning documents (PPS, CEOP, OP and ZBL) and obtain comments from the other agencies and members of the public through the public consultation process, as part of their decision-making on the planning application.

## **RECOMMENDATION:**

THAT Council of the Township of Southwold receive Report PLA 2021-17 regarding Severance Application E30-21 – Comments to the County of Elgin;

AND THAT the Council of the Township of Southwold recommends approval of the Land Division Committee of County of Elgin for the severance application, File E30-21, subject to the Lower-Tier Municipal conditions in Appendix Two of Report PLA 2021-17;

AND FURTHER THAT Council of the Township of Southwold directs Administration to provide Report PLA 2021-17 as Municipal comments to the County of Elgin.

**Respectfully submitted by:**

**Bryan Pearce, HBA, CPT, MCIP, RPP  
Planner**

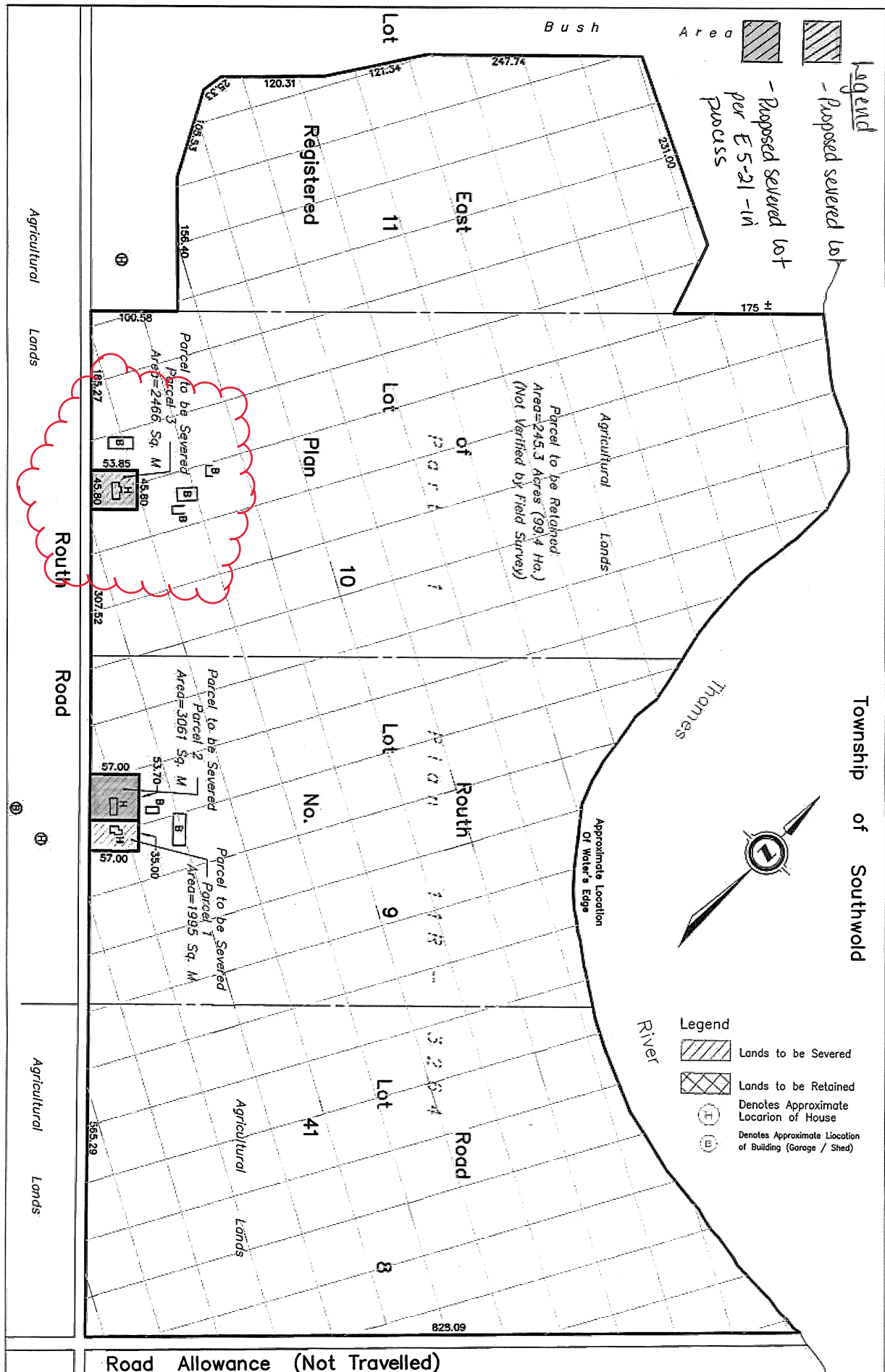
**Approved for submission by:**

**Lisa Higgs  
CAO/Clerk**

Appendices:

1. Appendix One: Severance (Consent) Sketch – E30-21
2. Appendix Two: Severance Application E30-21 Conditions











**Report PLA 2021-17:**

**Severance Application E30-21 - Comments to the County of Elgin**

**Appendix Two: Severance Application E30-21 Conditions**

Severance Application E30-21 Conditions:

1. That the Applicant meet all the requirements, financial and otherwise of the Municipality, to the satisfaction and clearance of the Municipality.
2. That the Applicant provides a description of the lands to be severed which can be registered in the Land Registry Office, to the satisfaction and clearance of the Municipality.
3. That the Applicant's Solicitor provides an undertaking to the Municipality, to provide a copy of the registered deed for the severed parcel once the transaction has occurred to the Municipality.
4. That the Applicant successfully apply to the Municipality for a Zoning By-law Amendment to rezone the retained and severed parcel and having such rezoning of the Zoning By-law come into full force and effect pursuant to the Planning Act, to the satisfaction and clearance of the Municipality.
5. That the Applicant remove the existing septic system and install a new septic system on the severed parcel, to the satisfaction and clearance of the Municipality.
6. That the Applicant obtain a change of use permit for the existing barns that had capability of housing livestock, to ensure all capability of housing livestock has been removed, to the satisfaction and clearance of the Municipality.
7. That the Applicant provide an easement agreement between the parties for the private water well and waterline that services the severed parcel's dwelling for the operation, maintenance, repair and replacement for the dominant tenement of the severed parcel over the servient tenement of the retained parcel, that is in compliance with the *Planning Act*, to the satisfaction and clearance of the Municipality.
8. That the Applicant have a drainage reapportionment completed pursuant to the *Drainage Act*, to the satisfaction and clearance of the Municipality.
9. That the Applicant provide a Mutual Drain Agreement pursuant to the Drainage Act, to the satisfaction and clearance of the Municipality.
10. That prior the final approval of the County, the County is advised in writing by the Municipality how the above-noted conditions have been satisfied.
11. That all conditions noted above shall be fulfilled within one year of the Notice of Decision, so that the County of Elgin is authorized to issue the Certificate of Consent pursuant to Section 53(42) of the *Planning Act*.

MUNICIPAL APPRAISAL SHEET

Your assistance is requested by the Elgin County Land Division Committee in answering the questions below. Please complete and attached relevant excerpts from the appropriate Official Plan and Zoning By-Law. Should you have any questions, please call this office.

Submission E30-21

Applicant 2245885 Ontario Inc.

Location 13662 Routh Road Southwold

OFFICIAL PLAN

- I. Is there an O.P. in effect?

Yes ( x )

No ( )
2. Does the proposal conform with the O.P.?

Yes ( x )

No ( )

Land Use Designation: Agricultural – Southwold Official Plan

Policies:  
Sections 2.1,2.2, 4.1, 5.7.1 and 6.8.6

ZONING

3. Is there a By-Law in effect?

Yes ( x )

No ( )
4. Does the proposal conform with all requirements of the By-Law?

Yes ( )

No ( x )

Comments:

Zoning by-law amendment is required

5. If not, is the Municipality prepared to amend the By-Law?

Yes ( x )

No ( )

OTHER

6. Does the Municipality foresee demand for new municipal services?

Yes ( )

No ( x )
7. If so, is the Municipality prepared to provide those services?

Yes ( )

No ( )
8. The Planning Act, R.S.O. 1990. C.P. 13, allows the Committee to impose conditions for:

(a) the conveyance of 5% land to the municipality for park purposes or cash in lieu of dedication ( )

(b) the dedication of highways ( )

(c) the dedication of land for highway widening ( )

(d) entering into an agreement with the municipality dealing with matters the Committee considers necessary. ( )

Does the Municipality wish the Committee to impose conditions relating to the above? Please indicate.  
Yes ( ) No ( x )

9. Does Council recommend the application?

Yes ( x )

No ( )

10. Does the municipality have other concerns that should be considered by the Committee?  
All local municipal interests are contained in the conditions imposed by the Township.

May 11, 2021

County of Elgin  
450 Sunset Drive  
St. Thomas, ON N5R 5V1

Attn: **Nancy Pasato**

Re: **Consent Application E 30-21**  
**3662 Routh Road (Ontario Inc)**  
**Lots 8, 9 & 10, Part Lot 11, Plan 41**  
**Township of Southwold**

Please be advised that the above mentioned application has been reviewed by this office and staff have no objections to this proposal. The Authority is responsible for addressing the Natural Hazard Section of the Provincial Planning Policy Statement as well as the Conservation Authority's Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation, O. Reg. 152/06 under the Conservation Authorities Act. After reviewing our files and mapping, staff determined that the retained property in question is subject to the Authority's Development and Alterations to Watercourses portion of the regulations. The issues of concern in this area are the Thames River, stable slopes, the Howe Drain, flooding and erosion.

An application from this office is required prior to any works/construction/alteration taking place within the regulated areas. The upper table lands are not subject to flooding of a general nature and as such structures are not required to be flood proofed. However, the flood proofing of structures for the purposes of prevention of flood damage from local, overland drainage waters is always recommended. Setbacks from the Thames River and the waterway will be required to any proposed structure(s).

Please be advised that the subject property is located in an area with a Highly Vulnerable Aquifer [HVA] and a Significant Groundwater Recharge Area [SGRA] as identified through the Lower Thames Valley Assessment Report in the Thames, Sydenham and Region Source Protection Region. For further information regarding this matter and how it may affect any proposed development please refer to the Thames, Sydenham and Region Source Protection website at [www.sourcewaterprotection.on.ca](http://www.sourcewaterprotection.on.ca).

I trust this is satisfactory, but if you should have any questions, or require more information, please call the office.

Yours truly



Valerie Towsley  
Resource Technician

COUNTY OF ELGIN ROAD SYSTEM

DATE: May 6, 2021 ELGIN COUNTY ROAD NO.: 13662 Routh Road

TO: THE COUNTY OF ELGIN LAND DIVISION COMMITTEE

RE:

APPLICATION NO.: E 30-21

OWNER: 2245885 Ontario Inc.

PROPERTY: LOT NO. Lots 8, 9, 10 & Part Lot 11 CONCESSION: 4

REG'D PLAN: MUNICIPALITY: Southwold

The notice of the above application on the above premises has been received and I have the following comments to make:

- 1) Land for road widening is required [Section 51 (25) of the Planning Act - That the owner dedicate lands along the frontage of the severed and retained lots/parcels up to 10 m from the centreline of construction of to the County of Elgin for the purposes of road widening if the right of way is not already to that width, to the satisfaction of the County Engineer. All costs to be borne by the owner. ]
- 2) A one-foot reserve is required along the N, S, E and/or W property line
- 3) Drainage pipes and/or catchbasin(s) are required
- 4) A Drainage Report is required under the Drainage Act \* (By Professional Engineer).....
- 5) A curb and gutter is required along the frontage
- 6) Direct Connection to a legal outlet for the severed lot is required - If an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited.....
- 7) Technical Reports
- 8) That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed parcel. All costs associated with this shall be borne by the owner.....
- 9) Lot Grading Plan is required for the severed lot.....
- 10) The County has no concerns..... X
- 11) Not on County Road
- 12) Please provide me with a copy of your action on this application
- 13) Other...

Note: These lands are subject to County of Elgin By-Law No. 92-57, as amended by By-Law No. 96-45, and any amendments made thereto hereafter, being a by-law to regulate the construction or alteration of any entranceway, private roads or access to a County road.

[Signature]

BRIAN LIMA, P. ENG. DIRECTOR OF ENGINEERING SERVICES



**County of Elgin**  
450 Sunset Drive  
St. Thomas, Ontario  
N5R 5V1 Canada  
Phone: 519-631-1460  
Fax: 519-633-7661  
www.elgin-county.on.ca

APPLICATION FOR CONSENT PURSUANT TO SECTION 53 OF THE PLANNING ACT,  
1990, AS AMENDED.

**To:** Elgin County Land Division Committee  
**From:** Nancy Pasato, Manager of Planning  
**Date:** May 26, 2021  
**Application:** E 30-21

**Owner:**  
**2245885 Ontario Inc.**  
10401 Westminster Drive  
London, ON N6P 1P3

**Agent:**  
Helen R. Button – Gunn & Associates  
108 Centre Street  
St. Thomas, ON N5R 2Z7

**Location:** 13524-13662 Routh Road, legally described as LOTS 8, 9, 10 & PART LOT 11, RP 41, Township of Southwold.

**PROPOSAL**

The applicants propose to sever a parcel with a frontage of 45.8 metres (150.26 feet) along Routh Road by a depth of 53.85 metres (176.67 feet) and an area of 0.25 hectares (0.62 acres), containing an existing house, for non-farm residential use. The owners are retaining 99.8 hectares (246.61 acres) proposed to remain in agricultural use.

**County of Elgin Official  
Plan**  
Agricultural Area

**Local Municipality Official  
Plan**  
Agricultural

**Local Municipality Zoning  
By-law**  
Agricultural (A1-2)  
Agricultural (A3)

**REVIEW & ANALYSIS:**

**Public and Agency Comments**

*Township of Southwold* - the Council of the Township of Southwold recommends approval of the Land Division Committee of County of Elgin for the application, File E30-21, subject to the Lower-Tier Municipal conditions provided.

*Lower Thames Valley Conservation Authority* – no objections.

*County Engineering* – no concerns.

**Planning Act and Provincial Policy Statement**

In considering this application, staff must have regard to matters of Provincial Interest in accordance with Section 2 of the Planning Act (PA), and subdivision criteria in accordance with Section 51(24) of the PA.

The application shall also be consistent with the 2020 Provincial Policy Statement (PPS). Policy 2.3.4. discourages lot creation in agricultural areas and may only be permitted for

agricultural uses, agriculture-related uses, infrastructure, and a residence surplus to a farming operation as a result of farm consolidation, provided that:

- the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and
- the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance.

The Applicant has indicated that the retained lands will maintain their current agricultural use. Policy 2.3.4.1 c) 1. states that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services. The proposed severed lands (0.25 hectares/0.62 acres) will contain an existing dwelling. The severed lot ensures adequate space for appropriate servicing, without taking away from the agricultural parcel.

#### County of Elgin Official Plan

The subject site is within the Agricultural Area designation of the Elgin County Official Plan (OP). The County OP contains policy related to lot creation on lands in the Agricultural Area (Policy E 1.2.3.4). New lots may be permitted if the local Official Plan supports their creation and if the lot is considered surplus to a farming operation as a result of a farm consolidation, provided that the development of a new residential use is prohibited on any retained parcel of farmland created by the consent to sever, unless the retained parcel is the product of the merging in title of two adjacent agricultural parcels in which case a dwelling unit would be permitted as part of the operation.

The Applicant has previously indicated that the retained lands will maintain their existing agricultural use and are of a sufficient size (99.8 hectares/246.61 acres). The severed lands, which contain a residence deemed surplus to the farming operation, are of a sufficient size to accommodate the existing single detached dwelling and existing private services (privately owned and operated individual septic tank and privately owned and operated piped water system), without taking away from the agricultural features of the area. Additionally, the applicant has stated that a new well will be installed on the proposed severed lot as a condition of the consent. This will remove the need for an easement to access the existing well which is located on the retained lands.

#### Local Municipality Official Plan and Zoning By-law

The subject lands are designated Agricultural on Schedule 'A' Land Use in the OP. The Woodlands on Schedule 'B' overlay apply to a portion of the proposed retained parcel and the Hazard Lands on Schedule 'B-1' overlay apply to a portion of the proposed retained parcel. Section 4.1 of the OP contains Agricultural land use policies in which agricultural uses and limited residential uses are permitted.

Section 6.8.6(e) Agricultural Consent policies for residences surplus to the needs of a farm operation state land severances in the Agricultural Area may be permitted for a habitable farm dwelling made surplus to the needs of a farm operation, as a result of farm consolidation, subject to the following conditions:

- i. the retained farm parcel will be zoned so as to prohibit the construction of any additional dwellings;

- ii. the non-farm parcel will be zoned to recognize the non-farm residential use;
- iii. Minimum Distance Separation I provisions can be met.

The proposed application demonstrates the residence is surplus to the needs of the farm, MDS-1 is in compliance, and a re-zoning will be required as condition of the consent to ensure there will be no future construction of dwellings on the retained lands, and to recognize the non-farm residential use on the severed lands. The proposal conforms to the local Official Plan.

The subject lands are zoned Agricultural 1 Special Provision 2 (A1-2) and Agricultural 3 (A3) Zone and a portion of the lands within the Natural Areas and Adjacent Lands Constraint and Conservation Authority Regulations Constraint, as shown in the Zoning By-law.

The proposed retained parcel would need to be rezoned to implement the proposed lot creation either by:

- removing Special Provision 2 from the existing dwelling and amenity area to be within the A1 Zone since one dwelling per lot would apply, should the proponent wish to further sever the existing dwelling as surplus to the farm operation; or alternatively,
- rezone the retained parcel to the A1 Zone, since one dwelling is permitted per lot, should the proponent wish to retain the dwelling with the remnant farmlands, as it is already freezing the development potential of a dwelling since one exists.

In conversations with the Applicant, they noted there is no intent to sever the third dwelling off of the farmlands at this time. Therefore, it is recommended that the retained parcel be rezoned with one of the two options noted above, that can be further discussed with the Township prior to submission. Therefore, it would appear that the proposal would comply with the ZBL, provided a Zoning Bylaw Amendment was obtained for the severed and retained parcels.

#### **RECOMMENDATION:**

The application for consent is consistent with both the 2020 Provincial Policy Statement and complies with the County of Elgin Official Plan regarding surplus lot creation in agricultural areas. As such, planning staff recommends approval subject to the following conditions:

1. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
2. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed.

Additionally, it is recommended that the following conditions from the Township of Southwold be included as conditions for consent:

1. That the Applicant meet all the requirements, financial and otherwise of the Municipality, to the satisfaction and clearance of the Municipality.

2. That the Applicant provides a description of the lands to be severed which can be registered in the Land Registry Office, to the satisfaction and clearance of the Municipality.
3. That the Applicant's Solicitor provides an undertaking to the Municipality, to provide a copy of the registered deed for the severed parcel once the transaction has occurred to the Municipality.
4. That the Applicant successfully apply to the Municipality for a Zoning By-law Amendment to rezone the retained and severed parcel and having such rezoning of the Zoning By-law come into full force and effect pursuant to the Planning Act, to the satisfaction and clearance of the Municipality.
5. That the Applicant remove the existing septic system and install a new septic system on the severed parcel, to the satisfaction and clearance of the Municipality.
6. That the Applicant obtain a change of use permit for the existing barns that had capability of housing livestock, to ensure all capability of housing livestock has been removed, to the satisfaction and clearance of the Municipality.
7. That the Applicant have a qualified contractor install a new water well and waterline on the proposed severed parcel to supply water to the existing dwelling, and decommission the existing water well and water line or relocate the existing water line to service the proposed retained parcel, to the satisfaction and clearance of the Municipality.
8. That the Applicant have a qualified contractor relocate the existing hydro service supplying the existing dwelling from the proposed retained parcel to the proposed severed parcel, at their sole cost and expense, to the satisfaction and clearance of the Municipality.
9. That the Applicant have a drainage reapportionment completed pursuant to the Drainage Act, to the satisfaction and clearance of the Municipality.
10. That the Applicant provide a Mutual Drain Agreement pursuant to the Drainage Act, to the satisfaction and clearance of the Municipality.
11. That prior the final approval of the County, the County is advised in writing by the Municipality how the above-noted conditions have been satisfied.
12. That all conditions noted above shall be fulfilled within one year of the Notice of Decision, so that the County of Elgin is authorized to issue the Certificate of Consent pursuant to Section 53(42) of the Planning Act.





**CORPORATION OF THE COUNTY OF ELGIN  
NOTICE OF APPLICATION FOR CONSENT**

**APPLICATION NO. E 31-21**

**LOT 9, CONCESSION 7  
TOWNSHIP OF MALAHIDE  
MUNICIPAL ADDRESS: 49145 GLENCOLIN LINE**

**TAKE NOTICE** that an application has been made by **Graham & Janet Saarloos**, 48813 Glencolin Line, Aylmer ON N5H 2R6 for a consent pursuant to Section 53 of the Planning Act, 1990, as amended, to sever lands municipally known as 49145 Glencolin Line, Township of Malahide.

The applicants propose to sever a parcel with a frontage of 71.64 metres (235.04 feet) along Glencolin Line by a depth of 86.87 metres (285.01 feet) and an area of 0.62 hectares (1.53 acres), containing an existing house and a shed, proposed to be residential use. The owners are retaining 12.71 hectares (31.41 acres) proposed to remain in agricultural use.

The location of the property is shown on the Key Map attached.

**ADDITIONAL INFORMATION** regarding the application is available for inspection daily, Monday to Friday, between 8:30 A.M. and 4:30 P.M., at the County Municipal Offices, 450 Sunset Drive, St. Thomas or at a Public Hearing to be held on:

**WEDNESDAY May 26, 2021 AT 10:15 AM.  
BY VIDEO/TELEPHONE CONFERENCE OR IN PERSON AT  
Council Chambers, County Municipal Offices, 450 Sunset Drive, St. Thomas**

Any person or public body may attend the Public Hearing and/or make written or verbal representation either in support of, or in opposition to the proposed consent.

**PLEASE NOTE: YOUR PARTICIPATION BY VIDEO/TELECONFERENCE or  
TELEPHONE IS PREFERRED.**

**DUE TO PROVINCIAL ORDERS, ATTENDANCE IN PERSON MAY BE  
RESTRICTED. PLEASE CONTACT [npasato@elgin.ca](mailto:npasato@elgin.ca) AT LEAST 24 HOURS  
BEFORE THE MEETING TO ARRANGE FOR VIDEO/TELECONFERENCE OR  
TELEPHONE INFORMATION, OR TO CONFIRM IF IN PERSON ATTENDANCE IS  
POSSIBLE.**

If you wish to be notified of the decision of the Land Division Committee in respect of the proposed consent, you must submit a written request to the Land Division Committee. This will also entitle you to be advised of any appeal to the Local Planning Appeal Tribunal.

If a person or public body that files an appeal of a decision of the Land Division Committee in respect of the proposed consent does not make written or oral submissions to the Land Division Committee before it gives or refuses to give a provisional consent, the Local Planning Appeal Tribunal may dismiss the appeal.

Dated at the Municipality of Central Elgin this 5<sup>th</sup> day of May, 2021.

Nancy Pasato  
Acting Secretary-Treasurer  
Land Division Committee

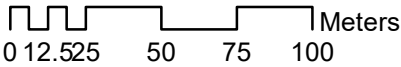
County of Elgin  
Planning Department  
450 Sunset Drive  
St. Thomas, Ontario  
N5R 5V1 Canada  
Phone: 519-631-1460  
Fax: 519-631-4549





*Location Map*



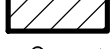


Subject Site: 49145 Glencolin Line  
File Number: E31-2021  
Owner: Graham and Janet Saarloos  
Planner: Nancy Pasato  
Created By: AL  
Date: 05/05/2021



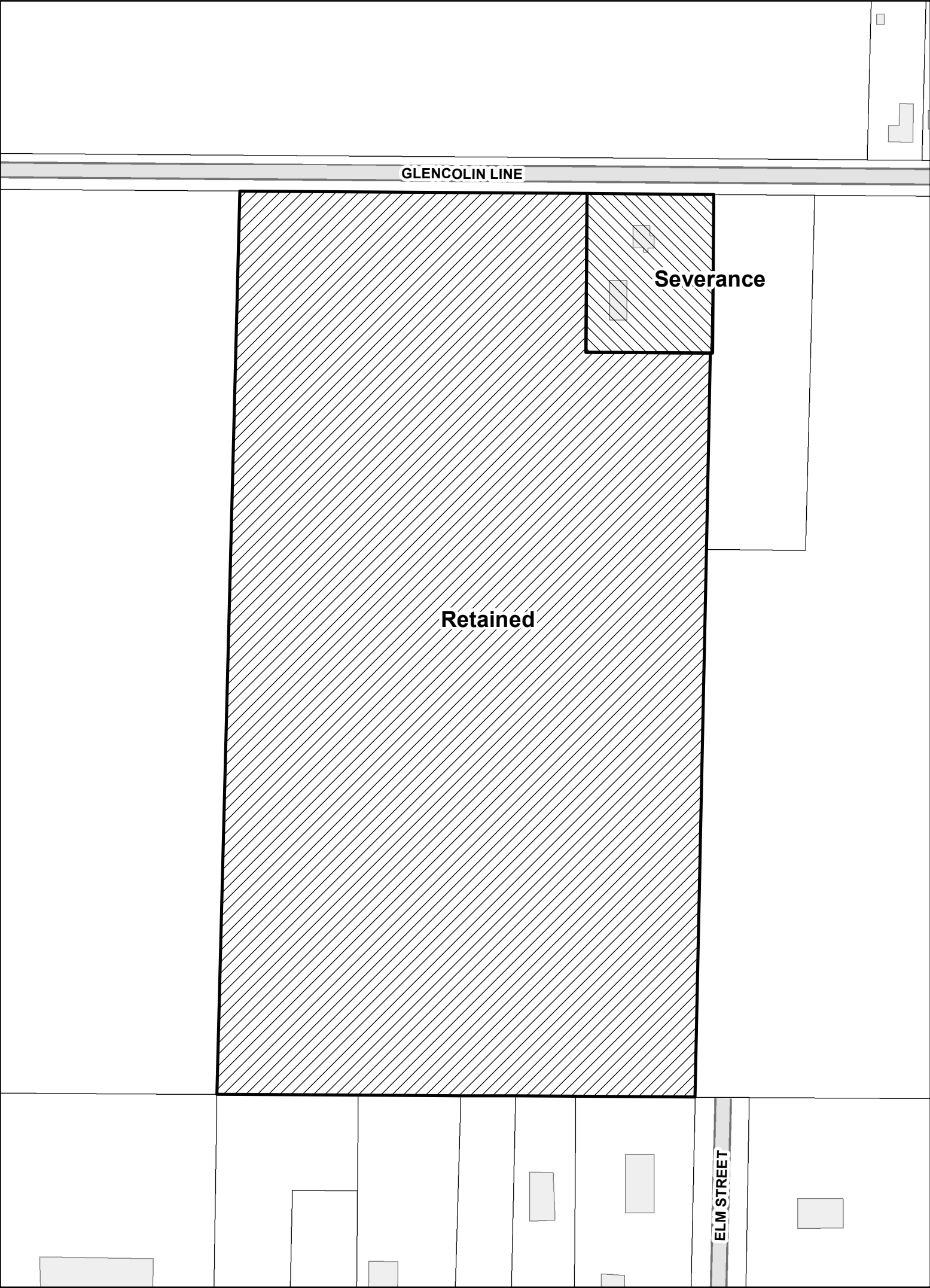
The Corporation of the County Elgin  
Prepared By: Planning and Development

Scale 1:2,500

*Legend*

-  Subject Site
-  Severance
-  Retained
-  Elgin Road Network
-  Buildings

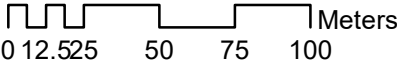




## Location Map

Subject Site: 49145 Glencolin Line  
File Number: E31-2021  
Owner: Graham and Janet Saarloos  
Planner: Nancy Pasato  
Created By: AL  
Date: 05/05/2021

The Corporation of the County Elgin  
Prepared By: Planning and Development



Scale 1:2,500



## Legend

- Subject Site
- Severance
- Retained
- Elgin Road Network
- Buildings

INVOICE  
FACTURE

Exact Septics Inc.  
43870 Talbot Line  
St. Thomas ON N5P 3S7

103641

DATE <i>April 16 / 2021</i>
TAX REG. NO. N° DE TAXE

SOLD TO VENDU A <i>Graham Soarlos</i>	SHIP TO EXPÉDIER A
ADDRESS ADRESSE <i>49145-48813 Glencolin line</i>	ADDRESS ADRESSE
<i>519-765-5055</i>	

CUSTOMER'S ORDER COMMANDE DU CLIENT	SOLD BY VENDU PAR	TERMS CONDITIONS	FOB FAB	VIA
--	----------------------	---------------------	------------	-----

QUANTITY QUANTITÉ	DESCRIPTION	PRICE PRIX	UNIT UNITÉ	AMOUNT MONTANT
<i>2</i>	<i>Pumped Septic Tanks</i>			<i>500 00</i>
	<i>Both Tanks in good Shape</i>			
	<i>Normal levels Baffles are</i>			
	<i>in place Beds Dry</i>			
	<i>at The Time of Inspection</i>			
	<i>Paid</i>			
	<i>cash</i>	<i>13%</i>	TVH/HST TPS/GST	<i>65 00</i>
			PST/TVP	
			TOTAL	<i>565 00</i>

STAPLES 51B

**J.B. Wilson & Son**  
**Well Drilling Ltd.**

R.R. #1 Springfield, ON  
519-269-3364 Fax: 519-269-3552

Graham and Janet Saarloos  
48813 Glen Colin Line  
Aylmer, ON  
N5H 2R6

May 5, 2021

519-756-5055      janet@roszellsfurnishings.com

Please find below a summary of the well inspection performed at 49145 Glen Colin Line.

**Pumping Test**

Drawdown (Pumping rate of 15 GPM)

Time	Water Level Top of Casing (ft)
0	31.4
1	44.8
2	55.3
3	63.7
4	70.2
5	76.2
10	92.0
15	98.2
20	102.1
25	103.8

Recovery (no pumping)

Time	Water Level Top of Casing (ft)
0	103.8
1	93.8
2	84.1
3	78.2
4	72.2
5	69.9
10	50.5

This well is capable of producing 15 GPM. This is more than enough water to supply a household for above average use.

Please contact us should you have any questions or concerns.

Regards,

Matt Wilson  
Vice President

MOE Technicians Licence #3300 – Class 1,2,3,4  
MOE Contractors Licence #5466



Bacteriological Analysis of Drinking Water for Private Citizen, Single Household Only  
Analyse bactériologique de l'eau potable - Particuliers, Ménages unifamiliaux seulement

## Submitter's Name and Mailing Address /

Nom et adresse postale de l'auteur de la demande d'analyse

First Name / Last Name / Prenoms, Nom de famille

GRAHAM SAARLOOS

Street address / Adresse municipale

49145 GLENCOLIN LINE

RR7

AYLMER, ON N5H 2R6

## Location of Water Source /

Emplacement de la source d'eau

Lot, Concession / ou lot, concession

Emergency Locator # / 911#

82

Street address / Adresse municipale

49145 GLENCOLIN LINE

RR 7

MALAHIDE ON N5H2R6

County / Comté: ELGIN

Health Unit # / # du bureau de santé: 4913

## Specimen details / Détails sur l'échantillon:

Barcode / Code à barres: 11572903

Phone # / # tél.: 519 765 5055

Date/Time Collected / Date/heure du prélèvement: 2021-04-20 09:00:00

Date/Time Received / Date/heure Reçu le: 2021-04-20 17:42:00

## Specimen Note / Note sur l'échantillon:

This specimen was received in good condition unless otherwise stated. / À moins d'avis contraire, l'échantillon était en bonne condition au moment de la réception.

Purification system used (e.g. UV, filtration, etc.)? /  
Système d'épuration utilisé (p. ex. rayons UV, filtration, etc.)?

No / Non

Authorized by / Autorisé par

Chief, Medical Microbiology or Designate

## Test results / Résultats d'analyse:

Total Coliform CFU/100 mL / Coliformes totaux UFC/100 mL

0

E.coli CFU/100 mL / E.coli UFC/100 mL

0

## Interpretation / Interprétation:

There is no evidence of fecal contamination. If the results show the presence of coliforms it may be indicative of a contaminated water supply. Given the vulnerability of well water to external influences, it is important to test water frequently. Consult local health unit for information if required.

Il n'y a aucune preuve de contamination fécale. Si les résultats indiquent la présence de coliformes, cela peut être révélateur d'une source d'eau polluée. L'eau des puits étant susceptible d'être dégradée par des facteurs externes, il est important de la faire analyser fréquemment. Consultez le bureau local de santé publique pour plus de détails, si nécessaire.

Date of Analysis / Date de l'analyse: 2021-04-20

Date Read / Analyse effectuée le: 2021-04-21

## Please Note / Prière de noter ce qui suit :

The results apply to the sample as received / Les résultats s'appliquent à l'échantillon, tel que reçu.

These results relate only to the sample tested. / Le résultat obtenu se rapporte seulement à cet échantillon d'eau analysé.

Note: This water sample was only tested for the presence of both Total Coliforms and E. coli (ISO/IEC 17025 accredited tests) bacterial indicators of contamination by Membrane Filtration. The sample was not tested for other contaminants, including chemical contaminants, and therefore may be unsafe to drink even when there is no significant evidence of bacterial contamination. Contact your local public health unit for information on testing for other contaminants. / Remarque: Cet échantillon d'eau n'a été analysé que pour détecter (par un laboratoire accrédité conformément à la norme ISO/IEC 17025) la présence des coliformes totaux et des bactéries colibacillaires, indicateurs de contamination par filtration sur membrane. L'échantillon n'a pas été testé pour d'autres contaminants, y compris les contaminants chimiques et, par conséquent, l'eau peut être impropre à la consommation même lorsqu'il n'y a aucune preuve significative de contamination bactérienne. Veuillez communiquer avec le bureau de santé publique de votre localité pour vous renseigner au sujet de l'analyse visant à détecter la présence d'autres contaminants.

If the reported client information does not match the information you supplied on the form please contact the PHO Customer Service Centre. Telephone: 1-877-604-4567 or 416-235-6556 or E-mail: customerservicecentre@oahpp.ca. For operating hours see our website www.publichealthontario.ca/labs. / Si les informations sur le client indiquées ne correspondent pas aux informations que vous avez fournies sur le formulaire, veuillez communiquer avec le Service à la clientèle de SPO par téléphone au 1-877-604-4567 ou 416-235-6556, ou par courriel au customerservicecentre@oahpp.ca. Pour connaître les heures d'ouverture, veuillez consulter notre site Web à www.publichealthontario.ca/labs.

End of report / Fin du rapport

\*All time values are EST / EDT / Toutes les heures sont exprimées en HNE ou en HAE.

Print Date / Date d'impression: 2021-04-21

Date Reported / Date du rapport: 2021-04-21 18:13:06

Page 1 of 1

Final

LIMS Report #: 40536529

T\_SingleSampleOPHL\_WATPRIVATE.rpt



May 7, 2021

Land Division Committee  
County of Elgin  
450 Sunset Drive  
St. Thomas, Ontario  
N5R 5V1

Dear Committee Members:

**RE: Land Severance Application E31/21 – Graham and Janet Saarloos**

The Malahide Township Council passed the following Resolutions on May 6, 2021:

**THAT the Malahide Township Council has no objection to the Land Severance No. E31/21 in the name of Graham and Janet Saarloos, relating to the property located at North Part of Lot 82, Concession NTR, and North Part of Lot 9, Concession 7, Geographic Township of Malahide, known municipally as 49145 Glencolin Line, subject to the following conditions:**

- (i) That the applicant initiates and assume, if required, all engineering costs associated with the preparation of a revised assessment schedule in accordance with the Drainage Act, RSO 1990, as amended, with a deposit to be paid in full to the township prior to the condition being deemed fulfilled. If the deposit does not cover the costs of the revised assessment schedule, the applicant will be billed for any additional costs incurred.**
- (ii) That all entrance permits are acquired from the appropriate road authority as per our entrance control policy.**
- (iii) That all outstanding work orders or by-law enforcement issues be resolved to the satisfaction of the Chief Building Official prior to the condition being deemed fulfilled.**
- (iv) That the applicants initiate and assume all planning costs associated with the required Zoning Amendment with such cost to be paid in full to the Township and that the required process be successfully completed prior to the condition being deemed fulfilled.**
- (v) Confirmation that private sewage system be confined entirely within the boundaries of the newly created parcel. That system be in conformance with all required setbacks from lot lines prior to the condition being deemed fulfilled.**

- (vi) **That all applicable property taxes, municipal fees and charges be paid to the Township prior to the stamping of the deeds.**
- (vii) **That an electronic version of the reference plan be submitted to the satisfaction of the Township.**
- (viii) **That the applicant is responsible to apply and pay all fees to the Township with respect to Civic Addressing Numbers/Signage for the severed and retained portions of property prior to the condition being deemed fulfilled.**

We enclose Municipal Appraisal together with Municipal Report DS-21-22 for your records.

Yours very truly,  
TOWNSHIP OF MALAHIDE



M. CASAVECCHIA-SOMERS, D.P.A., C.M.O., CMM III  
Chief Administrative Officer/Clerk

Copy - John Seldon  
Rosemary Kennedy  
Graham and Janet Saarloos



## MUNICIPAL APPRAISAL SHEET – LAND DIVISION COMMITTEE

Your assistance is requested in answering the questions below. Please complete Parts 1 and 2 and submit to the Secretary Treasurer of the Land Division Committee as soon as possible. Please complete and submit Part 3 once the local Council has provided a recommendation on the application.

Submission E31/21

Applicant Graham & Janet Saarloos

Location 49145 Glencolin Line

### PART 1 - OFFICIAL PLAN

- |   |           |        |
|---|-----------|--------|
| 1. Is there an O.P. in effect?              | Yes ( X ) | No ( ) |
| 2. Does the proposal conform with the O.P.? | Yes ( X ) | No ( ) |

Land Use Designation: \_\_\_\_\_

Policies: \_\_\_\_\_

### PART 2 - ZONING

- |   |         |        |
|---|---------|--------|
| 3. Is there a By-Law in effect?                                   | Yes (X) | No ( ) |
| 4. Does the proposal conform with all requirements of the By-Law? | Yes ( ) | No (X) |

Comments:

Rezoning Required

- |  |         |        |
|--|---------|--------|
| 5. If not, is the Municipality prepared to amend the By-Law? | Yes (X) | No ( ) |
|--|---------|--------|

### PART 3 – COUNCIL RECOMMENDATION – please complete below and send to the Secretary Treasurer of the Land Division Committee and attached any comments, staff reports(s) and Council resolutions/recommendations

- |   |         |        |
|---|---------|--------|
| 6. Does the Municipality foresee demand for new municipal services? | Yes ( ) | No (X) |
| 7. If so, is the Municipality prepared to provide those services?   | Yes ( ) | No ( ) |
| 8. Does the Municipality wish the Committee to impose conditions?   | Yes (X) | No ( ) |
| 9. Does Council recommend the application?                          | Yes (X) | No ( ) |

10. Does the municipality have other concerns that should be considered by the Committee?

See Conditions letter dated May 7rdffr, 2021



## Report to Council

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**REPORT NO.:** DS-21-22  
**DATE:** May 6, 2021  
**ATTACHMENT:** Report Photo, Application, Recommended Conditions  
**SUBJECT:** **Application for Consent to Sever of Graham & Janet Saarloos  
(Authorized Agent: Nathan Bokma)**  
**LOCATION:** North Part of Lot 82, Concession NTR, and  
North Part of Lot 9, Concession 7, Geographic Township of  
Malahide (49145 Glencolin Line)

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### **Recommendation:**

**THAT Report No. DS-21-22 entitled “Application for Consent to Sever of Graham & Janet Saarloos” be received;**

**AND THAT the Application for Consent to Sever of Graham & Janet Saarloos relating to the property located at North Part of Lot 82, Concession NTR, and North Part of Lot 9, Concession 7, Geographic Township of Malahide, known municipally as 49145 Glencolin Line, be supported for the reasons set out in this Report;**

**AND THAT this Report be forwarded to the Land Division Committee for its review and consideration.**

### **Background:**

The subject application for Consent to Sever (the “Application”) has been submitted on behalf of Graham & Janet Saarloos by Nathan Bokma, authorized agent, in order to sever an existing surplus dwelling as a result of a farm consolidation.

The Application relates to the property located at North Part of Lot 82, Concession NTR, and North Part of Lot 9, Concession 7, Geographic Township of Malahide and known municipally as 49145 Glencolin Line.

### **Comments/Analysis:**

The subject farm property is approximately 13.35 hectares (33.00 acres) in area, and has approximately 226.10 metres (741.80 feet) of frontage along Glencolin Line. There

is an existing single-detached dwelling and detached garage as shown on the report photo.

### **County of Elgin Official Plan**

The subject property is designated “Agriculture Area” on Schedule ‘A’, Land Use Plan. The subject property has no noted areas on Schedule ‘C’ (Aggregate and Petroleum Resources) or Appendix 1 (Environmental Resource Areas) of the County Official Plan.

In addition to the above, on Schedule ‘B’, “Transportation Plan”, the subject property is identified as having frontage along a “County Collector”, and in the southerly portion of the property, a “Proposed Transportation Corridor” is identified.

### **Malahide Official Plan**

The subject property is designated “Agriculture” on Schedule ‘A1’ (Land Use Plan).

Applications for the Severance of Surplus Farm Dwellings are to be considered in accordance with Section 2.1.7 of the Malahide Official Plan. In addition to other criteria of Section 2.1.7, the severed lot with the surplus farm dwelling shall be appropriately sized to support a private sanitary sewage treatment and disposal system and be serviced by a potable water supply, and the parcel of property constituting the retained agricultural lands shall be rezoned to prohibit the placement, development, or establishment of any additional type or form of residential dwelling units thereon, regardless of changes in property boundary or ownership.

### **Malahide Zoning By-law No. 22-18**

The subject property is within the “General Agricultural (A1) Zone”, on Key Map 44 of Schedule “A” to the Township’s Zoning By-law No. 22-18.

Through the associated Zoning By-law Amendment application, the proposed severed lot with the surplus farm dwelling will be placed into the “Small Lot Agricultural (A4) Zone” zone.

The “Small Lot Agricultural (A4) Zone” zone requires the following with regard to minimum lot area and frontage:

<b>“A4” Zone</b>	<b>Required:</b>	<b>Proposed Severed Lot</b>
Min. Lot Area	2,000 m <sup>2</sup> (0.5 acre)	6172.98 m <sup>2</sup> (1.53 acres)
Min. Lot Frontage	30m (98 feet)	71.64m (235 feet)

The proposed retained farm lot will be placed into the “Agricultural (A2) Zone” zone. The “Agricultural (A2) Zone” zone requires the following with regard to minimum lot area and frontage:

<b>“A2” Zone</b>	<b>Required:</b>	<b>Proposed Retained Farm Lot</b>
Min. Lot Area	20 ha (50 acres)	12.07 ha (29.8 acres)
Min. Lot Frontage	150m (492 feet)	194.5 m (638 feet)

## General Comments

The Development Services Staff has considered the merits of the subject application against applicable Official Plan policies and the Township's Zoning By-law and recommends that the Council support the Application.

The Development Services Staff has also considered comments provided (if any) by other internal departments. The Township Planner has also reviewed and has no concerns with the proposal, including the undersized lot area of the proposed retained farm parcel. The County can provide its requirements, if any, to the Land Division Committee on the "Proposed Transportation Corridor".

The associated Zoning By-law amendment will be considered if the County Land Division Committee provisionally approves the severance.

## Financial Implications to Budget:


The full cost of the consent and associated rezoning process is at the expense of the Applicant and has no implications to the Township's Operating Budget.

## Relationship to Cultivating Malahide:

The Cultivating Malahide Integrated Community Sustainability Plan (ICSP) is based upon four pillars of sustainability: Our Land, Our Economy, Our Community, and Our Government.

The importance of sustainable planning includes promoting for the protection of agricultural lands. As such, one of the goals that support the "Our Land" Strategic Pillar relates to "Respect the agricultural land base through the land use planning process".

New non-farm lot creation is permitted in very limited circumstances, including surplus farm dwelling severances. As such, the recommendation of this report supports the ICSP.

Submitted by:	Reviewed by:	Approved By:
Allison Adams, Development Services Coordinator	A. Betteridge, MCIP, RPP Director of Development Services (Planner)	

## Dawn Wittland-Graham

---

**From:** Nancy Pasato  
**Sent:** May 10, 2021 9:40 AM  
**To:** Dawn Wittland-Graham  
**Subject:** FW: Consent E31-21

For the file thanks.

**Nancy Pasato**  
*Manager of Planning*



450 Sunset Drive  
St. Thomas, ON. N5R 5V1  
(519) 631-1460 ext.126  
[www.elgincounty.ca](http://www.elgincounty.ca)



---

**From:** Tony Difazio <[planning@catfishcreek.ca](mailto:planning@catfishcreek.ca)>  
**Sent:** May 10, 2021 9:39 AM  
**To:** Nancy Pasato <[npasato@ELGIN.ca](mailto:npasato@ELGIN.ca)>  
**Subject:** Consent E31-21

Hi Nancy,

The CCCA has no concerns with the above noted Severance Application at 49145 Glencolin Line (G.& J. Saarloos).

If you have any questions do not hesitate to contact me directly.

Regards,

A handwritten signature in black ink that reads "Tony Difazio".



Tony Difazio  
Resource Planning Coordinator  
8079 Springwater Road, R.R.#5,  
Aylmer ON. N5H 2R4  
519-773-9037  
[planning@catfishcreek.ca](mailto:planning@catfishcreek.ca)

**COUNTY OF ELGIN ROAD SYSTEM**

DATE: May 6, 2021 ELGIN COUNTY ROAD NO.:

TO: THE COUNTY OF ELGIN LAND DIVISION COMMITTEE

RE:

APPLICATION NO.: E 31-21

OWNER: Graham & Janet Saarloos

PROPERTY: LOT NO. 9 CONCESSION: 7

REG'D PLAN: MUNICIPALITY: Malahide

The notice of the above application on the above premises has been received and I have the following comments to make:

- 1) Land for road widening is required .....  
*[Section 51 (25) of the Planning Act - That the owner dedicate lands along the frontage of the severed and retained lots/parcels up to m from the centreline of construction of to the County of Elgin for the purposes of road widening if the right of way is not already to that width, to the satisfaction of the County Engineer. All costs to be borne by the owner.*
- 2) A one-foot reserve is required along the N \_\_\_\_\_,  
S \_\_\_\_\_, E \_\_\_\_\_ and/or W \_\_\_\_\_ property line .....
- 3) Drainage pipes and/or catchbasin(s) are required .....
- 4) A Drainage Report is required under the Drainage Act \* (By Professional Engineer).....
- 5) A curb and gutter is required along the frontage .....
- 6) Direct Connection to a legal outlet for the severed lot is required - If an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited.....
- 7) Technical Reports .....
- 8) That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed parcel. All costs associated with this shall be borne by the owner.....
- 9) Lot Grading Plan is required for the severed lot.....
- 10) The County has no concerns.....
- 11) Not on County Road .....

X
- 12) Please provide me with a copy of your action on this application .....
- 13) Other...

Note: These lands are subject to County of Elgin By-Law No. 92-57, as amended by By-Law No. 96-45, and any amendments made thereto hereafter, being a by-law to regulate the construction or alteration of any entranceway, private roads or access to a County road.



BRIAN LIMA, P. ENG.  
DIRECTOR OF ENGINEERING SERVICES



**County of Elgin**  
450 Sunset Drive  
St. Thomas, Ontario  
N5R 5V1 Canada  
Phone: 519-631-1460  
Fax: 519-633-7661  
www.elgin-county.on.ca

APPLICATION FOR CONSENT PURSUANT TO SECTION 53 OF THE PLANNING ACT,  
1990, AS AMENDED.

**To:** Elgin County Land Division Committee  
**From:** Nancy Pasato, Manager of Planning  
**Date:** May 26, 2021  
**Application:** E 31-21

**Owner:**  
**Graham & Janet Saarloos**  
48813 Glencolin Line  
Aylmer, ON N5H 2R6

**Agent:**  
Nathan Bokma  
6969 Hacienda Road  
Aylmer, ON N5H 2R5

**Location:** 49145 Glencolin Line, legally described as North Part of Lot 82, Concession NTR, and North Part of Lot 9, Concession 7, Township of Malahide.

**PROPOSAL**

The applicants propose to sever a parcel with a frontage of 71.64 metres (235.04 feet) along Glencolin Line by a depth of 86.87 metres (285.01 feet) and an area of 0.62 hectares (1.53 acres), containing an existing house and a shed, proposed to be in residential use. The owners are retaining 12.71 hectares (31.41 acres) proposed to remain in agricultural use.

**County of Elgin Official  
Plan**  
Agricultural Area

**Local Municipality Official  
Plan**  
Agricultural

**Local Municipality Zoning  
By-law**  
General Agricultural (A1)

**REVIEW & ANALYSIS:**

**Public and Agency Comments**

*Township of Malahide* - the Malahide Township Council has no objection to the Land Severance No. E31/21 subject to the provided conditions.

*Catfish Creek Conservation Authority* – no concerns.

*County Engineering* – No concerns. Indicated the subject site is not on a County Road.

**Planning Act and Provincial Policy Statement**

In considering this application, staff must have regard to matters of Provincial Interest in accordance with Section 2 of the Planning Act (PA), and subdivision criteria in accordance with Section 51(24) of the PA.

The application shall also be consistent with the 2020 Provincial Policy Statement (PPS). Policy 2.3.4. discourages lot creation in agricultural areas and may only be permitted for agricultural uses, agriculture-related uses, infrastructure, and a residence surplus to a farming operation as a result of farm consolidation, provided that:

- the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and
- the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance.

The Applicant has indicated that the retained lands will maintain their current agricultural use. Policy 2.3.4.1 c) 1. states that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services. The proposed severed lands (0.62 hectares/1.53 acres) will contain an existing dwelling and shed. The severed lot is larger than typically permitted for a surplus farm dwelling. However, due to the location of the existing house, shed, services and their proximity to the east property line, the ability to reduce the size of the lot further is limited. The proposed severed lot does not remove any additional farm lands that are not already included within the severed parcel.

#### County of Elgin Official Plan

The subject site is within the Agricultural Area designation of the Elgin County Official Plan (OP). The County OP contains policy related to lot creation on lands in the Agricultural Area (Policy E 1.2.3.4). New lots may be permitted if the local Official Plan supports their creation and if the lot is considered surplus to a farming operation as a result of a farm consolidation, provided that the development of a new residential use is prohibited on any retained parcel of farmland created by the consent to sever, unless the retained parcel is the product of the merging in title of two adjacent agricultural parcels in which case a dwelling unit would be permitted as part of the operation.

The Applicant has previously indicated that the retained lands will maintain their existing agricultural use and are of a sufficient size (12.71 hectares/31.41 acres). The severed lands, which contain a residence deemed surplus to the farming operation, are of a sufficient size to accommodate the existing single detached dwelling and existing private services (privately owned and operated individual septic tank and privately owned and operated piped water system), without taking away from the agricultural lands.

The severed lot is larger than typically permitted for a surplus farm dwelling (0.62 hectare/1.53 acres). The proposed severed lands (0.62 hectares/1.53 acres) will contain an existing dwelling and shed. The severed lot is larger than typically permitted for a surplus farm dwelling. However, due to the location of the existing house, shed, services and their proximity to the east property line, the ability to reduce the size of the lot further is limited. The proposed severed lot does not remove any additional farm lands that are not already included within the severed parcel. As such, planning staff are of the opinion the severed lot is of an appropriate size.

#### Local Municipality Official Plan and Zoning By-law

The subject property is designated "Agriculture" on Schedule 'A1' (Land Use Plan). Applications for the Severance of Surplus Farm Dwellings are to be considered in accordance with Section 2.1.7 of the Malahide Official Plan. In addition to other criteria of Section 2.1.7, the severed lot with the surplus farm dwelling shall be appropriately sized to support a private sanitary sewage treatment and disposal system and be serviced by a



potable water supply, and the parcel of property constituting the retained agricultural lands shall be rezoned to prohibit the placement, development, or establishment of any additional type or form of residential dwelling units thereon, regardless of changes in property boundary or ownership.

The subject property is within the “General Agricultural (A1) Zone”, on Key Map 44 of Schedule “A” to the Township’s Zoning By-law No. 22-18. Through the associated Zoning By-law Amendment application, the proposed severed lot with the surplus farm dwelling will be placed into the “Small Lot Agricultural (A4) Zone” zone. Additionally, the proposed retained farm lot will be placed into the “Agricultural (A2) Zone” zone, to recognize reduced lot area.

**RECOMMENDATION:**

The application for consent is consistent with both the 2020 Provincial Policy Statement and complies with the County of Elgin Official Plan regarding surplus lot creation in agricultural areas. As such, planning staff recommends approval subject to the following conditions:

1. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
2. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed.

Additionally, it is recommended that the following conditions from the Township of Malahide be included as conditions for consent:

1. That the applicant initiates and assume, if required, all engineering costs associated with the preparation of a revised assessment schedule in accordance with the Drainage Act, RSO 1990, as amended, with a deposit to be paid in full to the township prior to the condition being deemed fulfilled. If the deposit does not cover the costs of the revised assessment schedule, the applicant will be billed for any additional costs incurred.
2. That all entrance permits are acquired from the appropriate road authority as per our entrance control policy.
3. That all outstanding work orders or by-law enforcement issues be resolved to the satisfaction of the Chief Building Official prior to the condition being deemed fulfilled.
4. That the applicants initiate and assume all planning costs associated with the required Zoning Amendment with such cost to be paid in full to the Township and that the required process be successfully completed prior to the condition being deemed fulfilled.
5. Confirmation that private sewage system be confined entirely within the boundaries of the newly created parcel. That system be in conformance with all required setbacks from lot lines prior to the condition being deemed fulfilled.
6. That all applicable property taxes, municipal fees and charges be paid to the Township prior to the stamping of the deeds.
7. That an electronic version of the reference plan be submitted to the satisfaction of the Township.



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8. That the applicant is responsible to apply and pay all fees to the Township with respect to Civic Addressing Numbers/Signage for the severed and retained portions of property prior to the condition being deemed fulfilled.



**CORPORATION OF THE COUNTY OF ELGIN**

**NOTICE OF APPLICATION FOR CONSENT**

**APPLICATION NO. E 32-21**

**PART LOT 22, CONCESSION 8  
MUNICIPALITY OF BAYHAM  
MUNICIPAL ADDRESS: 11265 PLANK ROAD**

**TAKE NOTICE that** an application has been made by **Jesse Froese**, 55903 Maple Grove Line, Eden, Ontario, N0J 1H0 for a consent pursuant to Section 53 of the Planning Act, 1990, as amended, to sever lands municipally known as 11265 Plank Road, Municipality of Bayham.

The applicants propose to sever a parcel with a frontage of 23.19 metres (76.08 feet) along Plank Road by a depth of 60 metres (196.85 feet) and an area of 0.14 hectares (0.35 acres) for future residential use. The owners are retaining 7.41 hectares (18.31 acres) proposed to remain in agricultural use.

The location of the property is shown on the Key Map attached.

**ADDITIONAL INFORMATION** regarding the application is available for inspection daily, Monday to Friday, between 8:30 A.M. and 4:30 P.M., at the County Municipal Offices, 450 Sunset Drive, St. Thomas or at a Public Hearing to be held on:

**WEDNESDAY May 26, 2021 AT 10:25 AM.  
BY VIDEO/TELEPHONE CONFERENCE OR IN PERSON AT  
Council Chambers, County Municipal Offices, 450 Sunset Drive, St. Thomas**

Any person or public body may attend the Public Hearing and/or make written or verbal representation either in support of, or in opposition to the proposed consent.

**PLEASE NOTE: YOUR PARTICIPATION BY VIDEO/TELECONFERENCE IS PREFERRED.**

**DUE TO PROVINCIAL ORDERS, ATTENDANCE IN PERSON MAY BE RESTRICTED. PLEASE CONTACT [npasato@elgin.ca](mailto:npasato@elgin.ca) AT LEAST 24 HOURS BEFORE THE MEETING TO ARRANGE FOR VIDEO/TELECONFERENCE OR TELEPHONE INFORMATION, OR TO CONFIRM IF IN PERSON ATTENDANCE IS POSSIBLE.**

If you wish to be notified of the decision of the Land Division Committee in respect of the proposed consent, you must submit a written request to the Land Division Committee. This will also entitle you to be advised of any appeal to the Local Planning Appeal Tribunal.

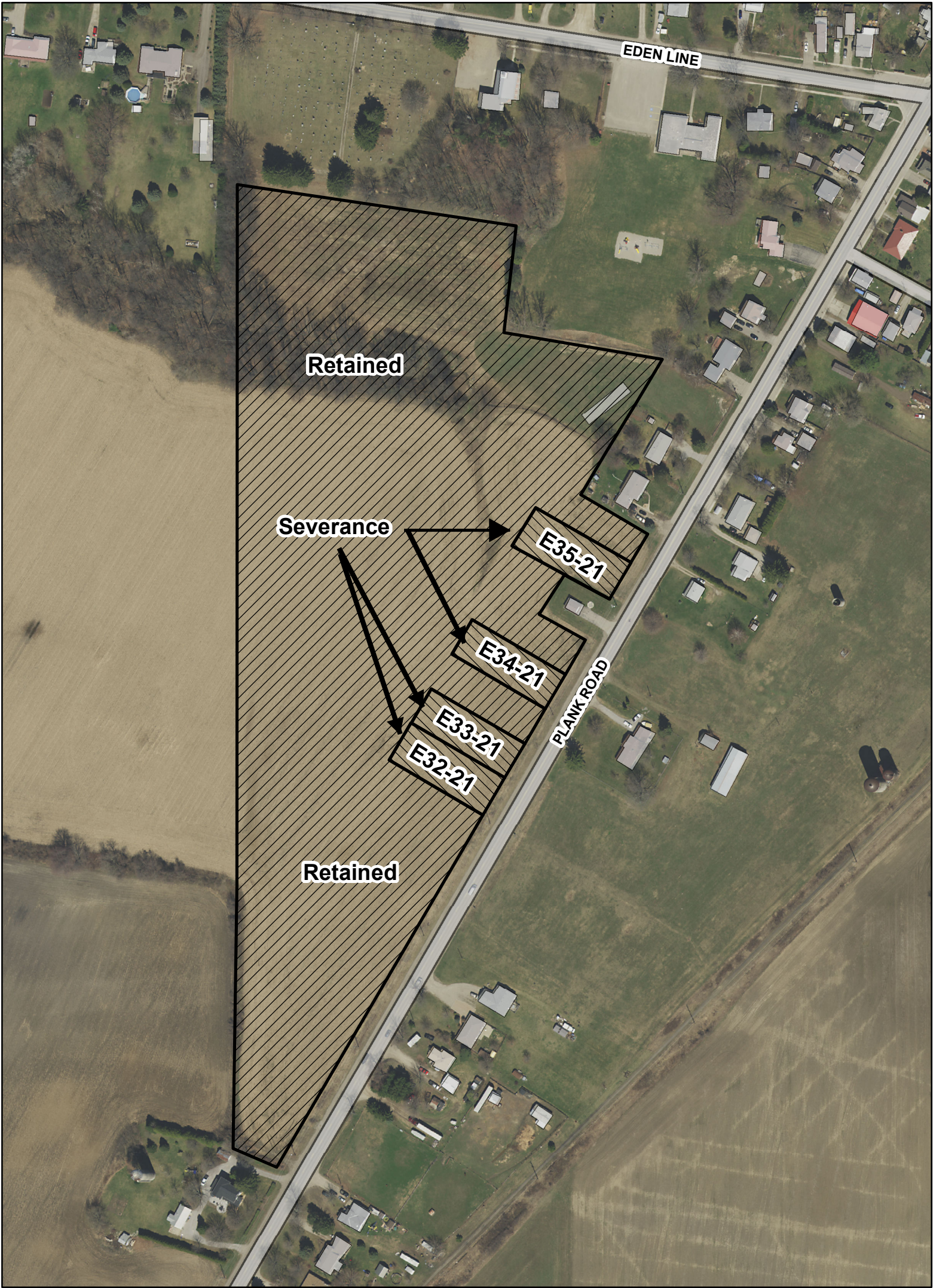
If a person or public body that files an appeal of a decision of the Land Division Committee in respect of the proposed consent does not make written or oral submissions to the Land Division Committee before it gives or refuses to give a provisional consent, the Local Planning Appeal Tribunal may dismiss the appeal.

Dated at the Municipality of Central Elgin this 5<sup>th</sup> day of May, 2021.

Nancy Pasato  
Acting Secretary-Treasurer  
Land Division Committee

**County of Elgin  
Planning Department**  
450 Sunset Drive  
St. Thomas, Ontario  
N5R 5V1 Canada  
Phone: 519-631-1460  
Fax: 519-631-4549

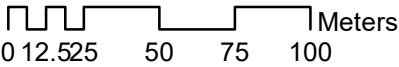




*Location Map*






Subject Site: 11265 Plank road  
File Number: E32-2021, E33-2021, E34-2021, E35-2021  
Owner: Jesse Froese  
Planner: Nancy Pasato  
Created By: AL  
Date: 05/05/2021

The Corporation of the County Elgin  
Prepared By: Planning and Development

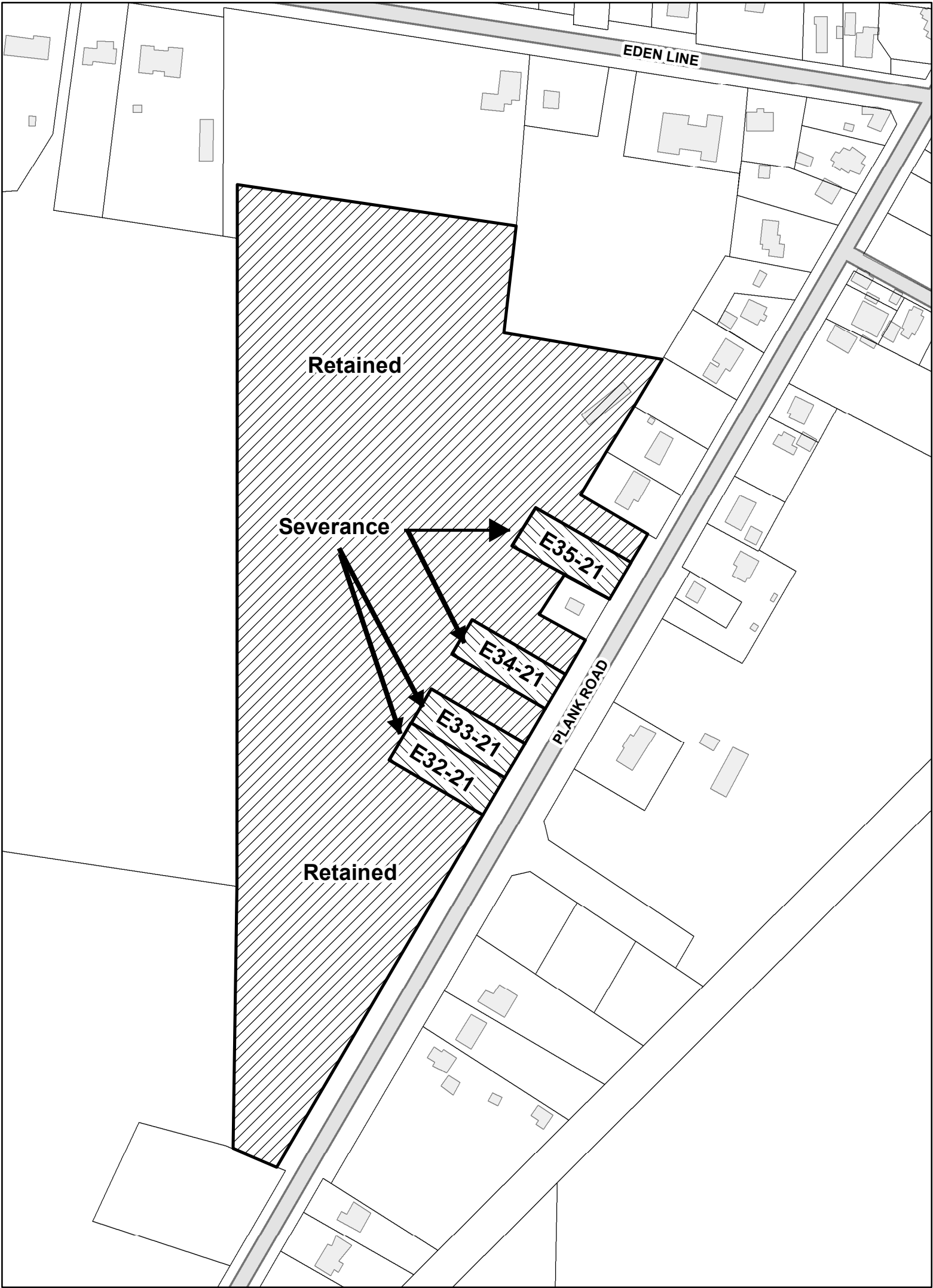


Scale 1:2,500

*Legend*

-  Subject Site
-  Severance
-  Retained
-  Elgin Road Network
-  Buildings

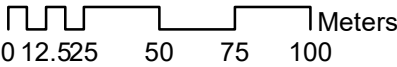




*Location Map*

Subject Site: 11265 Plank road  
File Number: E32-2021, E33-2021, E34-2021, E35-2021  
Owner: Jesse Froese  
Planner: Nancy Pasato  
Created By: AL  
Date: 05/05/2021

The Corporation of the County Elgin  
Prepared By: Planning and Development



Scale 1:2,500

*Legend*

- Subject Site
- Severance
- Retained
- Elgin Road Network
- Buildings

Municipality of  
**BAYHAM**

A: P.O. Box 160, 56169 Heritage Line  
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E: [bayham@bayham.on.ca](mailto:bayham@bayham.on.ca)

W: [www.bayham.on.ca](http://www.bayham.on.ca)



May 10, 2021

EMAIL ONLY

Nancy Pasato, Acting Secretary-Treasurer  
Elgin County Land Division Committee  
450 Sunset Drive  
St. Thomas ON N5R 5V1

Dear Ms. Pasato,

**Re: Application for Consent No. E32-35-21 Froese**

Please be advised that the Council of the Municipality of Bayham passed the following resolution adopted at the May 6, 2021 meeting:

**THAT Report DS-27/21 regarding the Consent Applications E32-21 – E35-21 submitted by Jesse Froese be received;**

**AND THAT Council recommend to the Elgin County Land Division Committee that Consent Applications E32-35/21 be granted subject to the following conditions:**

- 1. Installation of individual private wells with water quantity and water quality reports for bacteria and nitrates content meeting the Provincial standards for residential use, as a matter of public health and safety**
- 2. Engineer designed overall lot grading/drainage plan showing direct connection to the existing Municipal Drain**
- 3. Rezoning of the severed lands to remove the Holding (h2) Zone by entering into a Subdivision Agreement with the municipality**
- 4. Digital copy of the registered plan of survey**
- 5. Cash in Lieu of Parkland Dedication fee for each of four created lots**
- 6. Purchase civic number signs for each of four created lots**
- 7. Planning Report fee payable to the Municipality**

Municipal Appraisal Sheet and Staff Report DS-27/21 emailed with this letter. If you have any questions or require additional information, please do not hesitate to contact me.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Margaret Underhill', is written over a light blue horizontal line.

Margaret Underhill  
Acting Clerk/Planning Coordinator

## MUNICIPAL APPRAISAL SHEET – LAND DIVISION COMMITTEE

**Your assistance is requested in answering the questions below. Please complete Parts 1 and 2 and submit to the Secretary Treasurer of the Land Division Committee as soon as possible. Please complete and submit Part 3 once the local Council has provided a recommendation on the application.**

Submission E 32 – 35-21

Applicant Jesse Froese

Location Bayham – 11265 Plank Rd, Concession 8 Part Lot 22

### PART 1 - OFFICIAL PLAN

1. Is there an O.P. in effect? Yes ( X ) No ( )

2. Does the proposal conform with the O.P.? Yes ( X ) No ( )

Land Use Designation: Hamlets

Policies: OP 4.4.2.2

### PART 2 - ZONING

3. Is there a By-Law in effect? Yes ( X ) No ( )

4. Does the proposal conform with all requirements of the By-Law? Yes ( ) No ( X )

Comments: Zoning: Hamlet Residential (HR(h2)) and portion in LPRCA Regulation Limit

Rezoning required to remove the Holding 2 provision by entering into a Subdivision Agreement

5. If not, is the Municipality prepared to amend the By-Law? Yes ( X ) No ( )  
Rezoning application required

PART 3 – COUNCIL RECOMMENDATION – please complete below and send to the Secretary Treasurer of the Land Division Committee and attached any comments, staff reports(s) and Council resolutions/recommendations

6. Does the Municipality foresee demand for new municipal services? Yes ( X ) No ( )

7. If so, is the Municipality prepared to provide those services? Yes ( X ) No ( )

8. Does the Municipality wish the Committee to impose conditions? Yes ( X ) No ( )

9. Does Council recommend the application? Yes ( X ) No ( )

10. Does the municipality have other concerns that should be considered by the Committee?

Staff Report and Resolution attached – Council meeting held May 6, 2021

- f) New hamlet commercial or industrial uses shall be included in a separate zoning category in the Zoning By-law and existing commercial and industrial facilities should also be so recognized in the zoning by-law;
- g) Adequate off-street parking shall be provided;
- h) Adequate buffer planting shall be provided between the hamlet commercial or industrial use and any adjacent residential areas, and such buffer planting may include provisions for grass strips, fences, and appropriate planting of trees and shrubs.

#### 4.4.2 **Residential Uses**

4.4.2.1 The principal land use function of “Hamlets” shall be for clusters of non-farm residential development in the form of single detached dwellings, and other low or medium density types of dwellings. These uses will be controlled and regulated by the Zoning By-law.

4.4.2.2 Consents will generally be discouraged and will only be granted when it is clearly not necessary in the public interest that a plan of subdivision be registered. If a plan of subdivision is not deemed necessary, regard shall be had to other policies in the Official Plan and to the following criteria when considering an application for a consent in the Hamlet areas:

- a) Consents shall be granted only in areas where the minor, or no extension of any municipal service would be required. Any services required in a consent should be satisfactory to the appropriate approval authority;
- b) Consents should be granted only when the land fronts on an existing public road, which is of a reasonable standard of construction;
- c) Consents should have the effect of infilling in existing developed areas and not of extending the Hamlet area unduly;
- d) The size of any parcel of land created by a consent should be appropriate for the use proposed considering the public services available and the soil conditions, and in no case should any parcel be created which does not conform to the provisions of the Zoning By-law;
- e) Direct access from major roads should be restricted and residential lots should, where possible, have access only from internal residential roads;



- f) Consents should not be granted for land adjacent to a road from which access is to be obtained where a traffic hazard would be created because of limited sight lines on curves or grades;
- g) Consents should be granted only when the creation of the lot will not interfere with subsequent access to interior lands;
- h) Consents for mortgage, estate, or other boundary adjustment purposes shall be permitted provided that they adhere to principles of good planning, do not cause land use conflicts and conform to the provisions of the Zoning By-law.

4.4.2.3 It is the intention of this Plan to allow for the eventual development of other residential types such as multiple unit dwellings and single unit mobile home parks within the residential areas of the “Hamlets”. These residential types shall be included in separate zoning categories in the Zoning By-law and will be permitted, providing that municipal water and sewer services are available, and an amendment to the Zoning By-law has been approved.

4.4.2.4 Consideration of the following factors shall be given in the evaluation of an amendment to the Zoning By-law for multi-unit residential developments:

- a) The uses permitted shall include the various types of multiple dwellings such as townhouses, converted dwellings and walk-up apartments;
- b) The multiple unit dwellings shall be sited to enhance the quality of the immediate area with particular attention to the effects of vehicular and pedestrian traffic generation;
- c) Adequate off-street parking shall be provided;
- d) Multiple unit dwellings will only be permitted in areas where municipal water and sewer services are available.

#### 4.4.3 **Commercial Uses**

4.4.3.1 The general principles to be considered in the development and zoning of commercial uses in the “Hamlets” are as follows:

- a) The uses permitted in this land use category are those uses that may serve local residents or the entire Municipality. These uses may include

### 3.3 Holding Zones

In any zone which is accompanied by the holding symbol "h", the uses normally permitted by that zone for lands, buildings or structures may only be allowed when the holding symbol is removed by amendment to this By-law or any subsequent holding by-law. Permitted uses, when the holding symbol (h) is applied, are limited to those that existed on the date when the holding by-law was passed. The purpose of individual holding zones is as follows:

Z611-2012

a) h1 Purpose: To ensure public health and safety, an agreement with the Municipality, or the satisfying of conditions of severance, which address impacts of new development to the applicable proposed water supply system and/or sewage treatment and disposal system; and which may include issues relating to water capacity, water quantity, water quality, and financial costs will be required prior to the removal of the "h1" zone symbol.

b) h2 Purpose: To ensure orderly development, a subdivision agreement with the Municipality, which addresses financial and servicing impacts of new development to the Municipality, will be required prior to the removal of the "h2" zone symbol.

c) h3 Purpose: To ensure the mitigation of impacts to natural heritage features and their ecological functions, an Environmental Impact Study will be required prior to the removal of the "h3" zone symbol.

d) h4 Purpose: To ensure parcels of land do not become landlocked, proof of access to a public right-of-way by the proponent will be required prior to the removal of the "h4" zone symbol.

Z655-2016

e) h5 Purpose: To ensure parcels of land meet Ministry of the Environment, Conservation and Parks requirements, a record of site condition shall be prepared and accepted prior to development of the lands.

Z701-2020

f) h6 Purpose: To ensure that development takes a form compatible with adjacent land uses, Agreement(s) with the Municipality shall be entered into following a public site plan review process specifying the issues allowed for under Section 41 of the Planning Act, as amended from time to time, prior to removal of the "h6" symbol.

### 3.4 Application of Regulations

No person shall within any zone use any land or erect, build, construct, reconstruct, relocate, excavate for, alter, add to, enlarge, extend or use any building or structure, except in conformity with this By-law for the zone in which such land, building, structure or use is located.

### 3.5 Defined Areas

All zones may be subdivided into one or more defined areas within which greater or lesser restrictions shall apply. These defined areas shall be designated by reference to the symbol of the zone within which each such defined area is located together with a number so as to differentiate different defined areas within a zone

## **SECTION 9      HAMLET RESIDENTIAL (HR) ZONE REGULATIONS**

### **9.1    Permitted Uses**

No land shall be used and no buildings or structures shall be erected, used or altered in the Hamlet Residential (HR) Zone except for the following purposes:

One single detached dwelling on one lot;

Bed and Breakfast Lodging or Tourist Home;

Converted dwelling;

Home occupation;

Private garage or carport as an accessory use;

Accessory use.

### **9.2    Minimum Lot Area**

No public water supply or sanitary sewage disposal service: 1,390 m<sup>2</sup>

**Z698-2020**

Public water supply, but no sanitary sewage disposal service: 1,100 m<sup>2</sup>

Public sanitary sewage disposal service, but no public water supply: 900 m<sup>2</sup>

### **9.3    Minimum Lot Frontage**

20.0m

**Z698-2020**

### **9.4    Maximum Lot Coverage**

30%

### **9.5    Maximum Building Height**

10.5m

9.5.1      Maximum Accessory Building Height: 4.5m

### **9.6    Minimum Floor Area**

**Z698-2020**

### **9.7    Maximum Floor Area for an Accessory Building**

75 m<sup>2</sup> or 8% lot coverage, whichever is less

### **9.8    Minimum Front Yard Depth**

7.0 metres

### **9.9    Minimum Side Yard Width**

Single detached dwelling with an attached garage or carport:	1.2 metres plus 0.5 metres for each additional or partial storey above the first storey
Single detached dwelling without an attached garage or carport:	1.2 metres plus 0.5 metres for each additional or partial storey above the first

	storey for one side and 3.0 metres on the other side
Single detached dwelling situated on a corner lot:	4.5 metres on the side abutting a public street and 1.2 metres plus 0.5 metres for each additional or partial storey above the first storey on the other side

9.10 **Minimum Rear Yard Depth**

9.0m

9.11 **Minimum Separation Distance**

From the edge of a railway right-of-way: 30.0 metres

9.12 **Exceptions - Hamlet Residential (HR) Zone**

9.12.1

9.12.1.1 **Defined Area**

HR-1 as shown on Schedule "B" to this By-law.

9.12.1.2 **Permitted Uses**

Commercial Greenhouse in addition to all other uses permitted in the Hamlet Residential (HR) Zone.

9.12.1.3 **Permitted Buildings and Structures**

Buildings and structures for the permitted uses.

9.12.1.4 **Minimum Lot Area**

975 square metres

9.12.1.5 **Minimum Lot Frontage**

- I. For a commercial greenhouse: 16 metres
- II. For a residential dwelling: 14.5 metres

9.12.1.6 **Minimum Side Yard**

2 metres on each side of each building in compliance with subsection 4.25.

9.12.2

9.12.2.1 **Defined Area**

HR-2 as shown on Schedule "E" to this By-law.

9.12.2.2 **Permitted Uses**

Service shop

Inside storage

Pumphouse for a communal well system

In addition to all other uses permitted in the Hamlet Residential (HR) Zone



# REPORT

## DEVELOPMENT SERVICES

**TO:** Mayor & Members of Council

**FROM:** Margaret Underhill, Deputy Clerk/Planning Coordinator

**DATE:** May 6, 2021

**REPORT:** DS-27/21

**FILE NO. C-07 / D09.21 Froese**

**Roll # 3401-000-006-07600**

---

**SUBJECT:** Consent Applications E32-21, E33-21, E34-21 and E35-21 Froese, J - Eden

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### BACKGROUND:

Four consent applications E32-21 – E35-21 were received from the Elgin County Land Division Committee submitted by Appointed Agent Andrew Gilvesy on behalf of Jesse Froese proposing to sever four lots with frontages varying from 22 metres to 25.43 metres (72 – 83 ft) and equal depths at 60.0 m (196.8 ft). The owner would retain 6.99 ha (17.3 ac).

The subject land is described as Concession 8 Part of Lot 22, known municipally as 11265 Plank Rd, south of Eden Line on the west side of Plank Rd. The land is within the boundary of the Hamlet of Eden. Lands are designated "Hamlet" on Schedule 'D' Municipality of Bayham Land Use in the Official Plan. Lands are zoned Hamlet Residential Holding (HR-h2) Zone in Zoning By-law No. Z456-2003.

Elgin County Land Division Committee will consider the applications on May 26, 2021.

### DISCUSSION:

The four lots may be considered as infilling in a settlement area with the retained lands subject to a future plan of subdivision. When considering multiple lot development, careful consideration must be given to the overall development, potential servicing, surface water management and drainage.

The lots will require private wells and will connect to the existing sanitary sewer stubs at the lot line. The owner will have to provide acceptable water quality and quantity testing results meeting provincial standards for residential use. An Engineer / Surveyor designed overall lot grading/drainage plan with a direct connection to the existing municipal drain is required showing as much surface water as possible directed to the drain, which may require private tile



branches and catch basins. Fire Services also encourage all homebuilders to install residential sprinklers for health and safety.

The severed lands require rezoning to remove the Holding (h2) Zoning by entering into a Subdivision Agreement with the municipality. In addition, our standard conditions are to require civic numbering signage, survey, cash in lieu payment for the creation of building lots, planning report fee and engineer design lot grading/drainage plan.

Staff and municipal planner recommend Council support of the consent applications for the creation of four lots with one retained parcel fronting on Plank Rd in the Hamlet of Eden.

#### **ATTACHMENTS**

1. Consent Applications E32-21 – E35-21 Froese, J (complete E32-21 application; E33-21 – E35-21 only portions of application attached)
2. IBI Group Memorandum dated April 26, 2021

#### **RECOMMENDATION**

**THAT Report DS-27/21 regarding the Consent Applications E32-21 – E35-21 submitted by Jesse Froese be received;**

**AND THAT Council recommend to the Elgin County Land Division Committee that Consent Applications E32-35/21 be granted subject to the following conditions:**

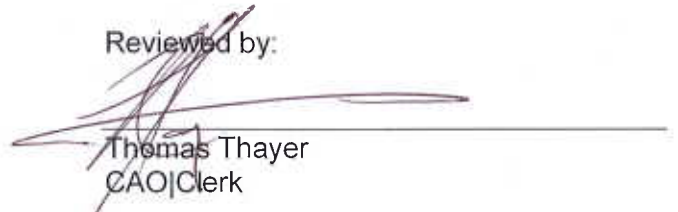
1. Installation of individual private wells with water quantity and water quality reports for bacteria and nitrates content meeting the Provincial standards for residential use, as a matter of public health and safety
2. Engineer designed overall lot grading/drainage plan showing direct connection to the existing Municipal Drain
3. Rezoning of the severed lands to remove the Holding (h2) Zone by entering into a Subdivision Agreement with the municipality
4. Digital copy of the registered plan of survey
5. Cash in Lieu of Parkland Dedication fee for each of four created lots
6. Purchase civic number signs for each of four created lots
7. Planning Report fee payable to the Municipality

Respectfully Submitted by:



Margaret Underhill  
Deputy Clerk|Planning Coordinator

Reviewed by:



Thomas Thayer  
CAO|Clerk



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London ON N6H 1T3 Canada  
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ibigroup.com

# Memorandum

<b>To/Attention</b>	Municipality of Bayham	<b>Date</b>	April 26, 2021
<b>From</b>	Paul Riley, BA, CPT	<b>Project No</b>	3404-814
<b>cc</b>	William Pol, MCIP, RPP		
<b>Subject</b>	Jesse Froese - 11265 Plank Road, Eden - Application for Consent E32/21, E33/21, E34/21, E35/21		

1. We have completed our review of Consent Applications E32/21 – E35/21 submitted by Andrew Gilvesy (CJDL Engineering) on behalf of his client, Jesse Froese, for lands legally known as Part of Lot 22 Concession 8 Bayham, known municipally as 11265 Plank Road, south of Eden Line on the west side of Plank Road. The applicant is requesting Consent to sever four (4) 0.13-0.15 ha (0.32 – 0.37 ac) parcels of land for residential purposes and to retain the remainder as vacant farmland. The lands are designated Hamlets on Schedule 'A1' Municipality of Bayham: Land Use in the Municipality of Bayham Official Plan. The lands are zoned Holding Hamlet Residential Zone (HR(h2)) on Schedule 'D' Eden in Zoning By-law Z456-2003. A portion of the subject lands is located within the Long Point Region Conservation Authority (LPRCA) Regulation Limit overlay of the Zoning By-law.
2. The existing lot is 7.7 ha (19 ac) in area with 183.8 m (603.1 ft) of frontage on Plank Road. These lands are currently vacant and mostly farmed. Surrounding uses are residential to the north, residential and agricultural to the south and east and agricultural to the west.
3. Consent application E32/21 (Part A) will have lot area of 0.14 ha (0.34 ac), lot frontage of 23.19 m (76 ft) and lot depth of 60.0 m (196 ft). Consent applications E33/20 (Part B) and E34/21 (Part C) will each have lot area of 0.13 ha (0.32 ac), lot frontage of 22 m (72 ft) and lot depth of 60.0 m. Consent application E35/21 (Part D) will have lot area of 0.15 ha (0.37 ac), lot frontage of 25.43 m (83 ft) and lot depth of 60.0 m. The retained parcel will have lot area of 6.99 ha (17.3 ac), lot frontage of 290.8 m (954 ft) and irregular lot depth.
4. The subject lands are designated Hamlets by the Municipality of Bayham Official Plan. The principal land use function within this designation is intended to be clusters of non-farm residential development in the form of single detached dwellings and other low/medium density development. Consents will generally be discouraged and only granted when a Plan of Subdivision is not required to protect the public interest. The proposal to create a four lots with frontage on Plank Road and where municipal sanitary sewers are available would not require Plan of Subdivision, therefore, creation of these lots by Consent is appropriate.

Municipality of Bayham – April 26, 2021

5. Section 4.4.2.2 of the Official Plan sets out criteria for Consents within the Hamlet designation, outlined below:

- a) There is an existing municipal sewer line (with stubs) along Plank Road, therefore, no extension of municipal services is required. The owner will connect the new dwellings to the existing municipal sewer line.
- b) The proposed residential lots front on Plank Road, an adequate existing road.
- c) The lands are within the hamlet and have the effect of infilling in an existing developed area.
- d) The size of the proposed lots is appropriate for residential purposes. The proposed lots meet the minimum frontage and lot area regulations of the HR zone, have adequate area to develop private water services (well) and is of adequate configuration and size to accommodate the required setbacks.
- e) Within the hamlet area Plank Road has reduced traffic speeds and the proposed accesses directly to Plank Road are in keeping with the existing pattern of development in Eden.
- f) Based on a desktop review of streetview and aerial images of Plank Road at the subject lands, the road appears flat and straight which suggests that no traffic hazard due to sightlines would be created.
- g) The creation of the lots will not interfere with subsequent access to the retained lands as the conceptual subdivision plan shows a retained access to the south of Part A and to the north of Part D. The retained frontage north of Part D provides for a 20.12 m roadway access which is adequate for future development.
- h) Not applicable.

Based on a review of the above criteria, the proposed lots have adequate frontage on an existing roadway where traffic hazards are not created, there are municipal sewer connections at the roadway, the severed and retained lots meet the minimum lot area requirements of the Zoning By-law and can accommodate single-detached dwellings meeting the setback requirements of the HR zone and access to the interior lands is not interfered with. Development of the severed lands for residential purposes will require the applicant to connect to the existing municipal sewer services and to construct a private water service (well). The proposed Consent(s) are in conformity to the Official Plan.

6. The subject lands are zoned HR(h2) in Zoning By-law Z456-2003, where a single-detached dwelling is a listed permitted use. The minimum lot frontage in the HR zone is 20.0 m (65.6 ft) and the minimum lot area is 0.09 ha (0.22 ac) for lots with municipal sewer services and private water services. The proposed and retained lots frontage and area exceed the minimum requirements of the HR zone. The proposed lots will



Municipality of Bayham – April 26, 2021

be developed in compliance to the regulations of the Zoning By-law for setbacks and required yards. The LPRCA Regulation Limit lands are not impacted by the proposed severances.

7. The purpose of the “h2” holding symbol is to ensure orderly development by requiring the applicant enters into a subdivision agreement with the Municipality, which addresses financial and servicing impacts of new development to the Municipality, prior to the removal of the holding symbol. The proposed Consent(s) comply to the Zoning By-law provided the applicant enter into an agreement with the Municipality and apply to remove the h2 holding symbol.
8. Based on the above review of Consent Applications E32/21 – E35/21, we have no objection to the proposed Consent to create four (4) additional lots in the Hamlet of Eden and recommend the following Conditions for Consent Approval:
  - a) That the owner rezones the severed lands to remove the Holding (h2) Zoning by entering into a Subdivision Agreement with the Municipality.
  - b) That the owner provides a survey of the lands.
  - c) That the owner provides private well test results confirming adequate water quality and quantity for residential use that meets provincial standards for the severed lots.
  - d) That the owner provides preliminary lot grading plans to demonstrate that the proposed residential lots will not have a negative drainage impact on abutting lots.
  - e) That the applicant applies and pay's all fees to the Municipality with respect to Civic Addressing/signage for the severed lots.
  - f) That the applicant provides a Planning Report Fee payable to the Municipality of Bayham.
  - g) That the applicant provides parkland dedication fee of \$2,000.00 to the Municipality of Bayham for each new lot in accordance with By-Law 2020-053.

*Paul Riley*

IBI Group  
Paul Riley

Consulting Planner to the  
Municipality of Bayham

**COUNTY OF ELGIN ROAD SYSTEM**

DATE: May 6, 2021 ELGIN COUNTY ROAD NO.: 19 - 11265 Plank Road

TO: THE COUNTY OF ELGIN LAND DIVISION COMMITTEE

RE:

APPLICATION NO.: E 32-21 – E 35-21

OWNER: Jesse Froese

PROPERTY: LOT NO. Part Lot 22 CONCESSION: 8

REG'D PLAN: MUNICIPALITY: Bayham

The notice of the above application on the above premises has been received and I have the following comments to make:

- 1) Land for road widening is required .....  
*[Section 51 (25) of the Planning Act - That the owner dedicate lands along the frontage of the severed and retained lots/parcels up to 18 m from the centreline of construction of Plank Road County Road (19) to the County of Elgin for the purposes of road widening if the right of way is not already to that width, to the satisfaction of the County Engineer. All costs to be borne by the owner.*

X
- 2) A one-foot reserve is required along the N \_\_\_\_\_,  
S \_\_\_\_\_, E \_\_\_\_\_ and/or W \_\_\_\_\_ property line .....
- 3) Drainage pipes and/or catchbasin(s) are required .....
- 4) A Drainage Report is required under the Drainage Act \* (By Professional Engineer).....
- 5) A curb and gutter is required along the frontage .....
- 6) Direct Connection to a legal outlet for the severed lot is required - If an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited.....

X
- 7) Technical Reports .....
- 8) That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed and retained parcels. All costs associated with this shall be borne by the owner.....

X
- 9) Lot Grading Plan is required for the severed lot.....

X
- 10) The County has no concerns.....
- 11) Not on County Road .....
- 12) Please provide me with a copy of your action on this application .....
- 13) Other...

Note: These lands are subject to County of Elgin By-Law No. 92-57, as amended by By-Law No. 96-45, and any amendments made thereto hereafter, being a by-law to regulate the construction or alteration of any entranceway, private roads or access to a County road.



BRIAN LIMA, P. ENG.  
DIRECTOR OF ENGINEERING SERVICES



**County of Elgin**  
450 Sunset Drive  
St. Thomas, Ontario  
N5R 5V1 Canada  
Phone: 519-631-1460  
Fax: 519-633-7661  
www.elgin-county.on.ca

APPLICATION FOR CONSENT PURSUANT TO SECTION 53 OF THE PLANNING ACT,  
1990, AS AMENDED.

**To:** Elgin County Land Division Committee  
**From:** Nancy Pasato, Manager of Planning  
**Date:** May 26, 2021  
**Application:** E 32-21

**Owner:**  
**Jesse Froese**  
55903 Maple Grove Line  
Eden, ON N0J 1H0

**Agent:**  
**Andrew Gilvesy**  
261 Broadway P.O. Box 460  
Tillsonburg, ON N4G 4H8

**Location:** 11265 Plank Road, know legally as PART LOT 22 CON 8, Municipality of Bayham.

**PROPOSAL**

The applicants propose to sever a parcel with a frontage of 23.19 metres (76.08 feet) along Plank Road by a depth of 60 metres (196.85 feet) and an area of 0.14 hectares (0.35 acres) for future residential use. The owners are retaining 7.41 hectares (18.31 acres) proposed to remain in agricultural use.

**County of Elgin Official  
Plan**  
Settlement Area Tier 2

**Local Municipality Official  
Plan**  
Hamlets

**Local Municipality Zoning  
By-law**  
Hamlet Residential (HR(h2))

**REVIEW & ANALYSIS:**

**Public and Agency Comments**

*Municipality of Bayham* – recommends to the Elgin County Land Division Committee that consent applications E32-35-21 be granted subject to the provided conditions.

*County Engineering* – no objections. Conditions 3, 4, 5 & 6 regarding right of way, direct connection, a potential entrance permit and lot grading must be satisfied.

**Planning Act and Provincial Policy Statement**

In considering this application, staff must have regard to matters of Provincial Interest in accordance with Section 2 of the Planning Act (PA), and subdivision criteria in accordance with Section 51(24) of the PA.

The application shall also be consistent with the 2020 Provincial Policy Statement (PPS). Policy 1.1.4 (Rural Areas in Municipalities) outlines that settlement areas are to be the focus of growth and development within municipalities and land use patterns within settlement areas shall be based on densities and a mix of land uses. Additionally, land use patterns within settlement areas shall also be based on a range of uses and opportunities for intensification and redevelopment in accordance with the criteria in policy 1.1.3.3, where this can be accommodated.

The Applicant has indicated the severed portion of the lands will be created for future residential use. The retained parcel of the lands will be used for the existing agricultural purpose. The proposed severed lots are within a settlement area.

#### County of Elgin Official Plan

The settlement areas in the County are divided into three tiers based on their scale, function, and the level of services that exist in each settlement. The subject site is designated Settlement Area Tier 2 (Eden) in the Elgin County Official Plan (OP). The second tier includes those settlement areas which are generally smaller in population than Tier 1 settlement areas and are on partial services (municipal water/individual onsite sewage services or individual on-site water/municipal sewage services). Limited development (including lot creation) is permitted in these settlement areas given the absence of full municipal services.

The applicant has indicated that the proposed development (i.e. lot creation) will be partially serviced (privately owned and operated individual well and a publicly owned and operated sewage system).

Development on partial services is permitted to allow for infilling and rounding out of existing development provided that:

- a) the proposed development is within the reserve sewage system capacity and reserve water system capacity; and
- b) site conditions are suitable for long-term provision of such services.

Section E.1.2.3.1 General Criteria outlines that consents may be supported subject to the application not creating any new traffic issues or hazards with appropriate access permitting; the proposed retained and severed lots have adequate size and frontage in accordance with the Zoning By-law; all other regulations of the Zoning By-law can be met; appropriate servicing exists or will exist; and the application will not have any adverse impacts on drainage, development of the retained lands, natural heritage or natural hazards. The applicant has addressed the abovementioned criteria and planning staff is satisfied there will be no adverse impacts as a result of this lot creation.

#### Local Municipality Official Plan and Zoning By-law

The subject lands are designated as Hamlets in the Municipality of Bayham Official Plan. The principle land use function within this designation is clusters of non-farm residential development in the form of single detached dwellings and other low/medium density development. Consents are generally discouraged and only supported by the municipality when a Plan of Subdivision is not required to protect the public interest. The proposal to create four lots where municipal sanitary sewers are available, would not require a Plan of Subdivision, and therefore the creation of these lots by consent is appropriate.

The subject lands are designated Hamlet Residential (HR(h2)), with a holding provision indicated by the "h2". The purpose of the "h2" holding symbol is to ensure orderly development by requiring the applicant to enter into a subdivision agreement with the

municipality. Therefore, the severed lands will require a rezoning to remove the Holding (h2) Zoning by entering into a Subdivision Agreement with the municipality.

**RECOMMENDATION:**

This application for consent is consistent with both the 2020 Provincial Policy Statement and complies with the County of Elgin Official Plan regarding lot creation in agricultural areas. As such, planning staff is of the opinion that the application is acceptable from a planning perspective and recommends approval subject to the following conditions:

1. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
2. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed
3. That the owners dedicate lands along the frontage of the severed and retained lots/parcels up to 18m from the centerline of construction of Plank Road County Road 19 to the County of Elgin for the purposes of road widening if the right of way is not already to that width, to the satisfaction of the County Engineer. All costs to be borne by the owner.
4. Direct connection to a legal outlet for the severed lot is required. If an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited;
5. That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed parcel. All costs associated with this shall be borne by the owner; and
6. A lot grading plan is required for the severed lot.
7. The applicant shall provide to the Land Division Committee a signed acknowledgement and undertaking confirming:
  - a. That the applicant has been advised that the Ontario Building Code Act requires confirmation of servicing including an individual on-site potable water supply and/or an individual on-site sewage system prior to the issuance of a building permit;
  - b. That the applicant has made the necessary inquiries of the Municipality to determine the work necessary in order to confirm that the site conditions are suitable for the long-term provision of such services with no negative impact; and
  - c. That the applicant undertakes to advise any future purchaser of the above acknowledgement and the results of such inquiries.
8. That the Municipality confirms that there is sufficient reserve sewage treatment capacity within the municipal sewage treatment system.

Additionally, it is recommended that the following conditions from the Municipality of Bayham be included as conditions for consent:

1. Installation of individual private wells with water quantity and water quality reports for bacteria and nitrates content meeting the Provincial standards for residential use, as a matter of public health and safety.
2. Engineer designed overall lot grading/drainage plan showing direct connection to the existing Municipal Drain.



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3. Rezoning of the severed lands to remove the Holding (h2) Zone by entering into a Subdivision Agreement with the municipality.
4. Digital copy of the registered plan of survey.
5. Cash in Lieu of Parkland Dedication fee for each of the four created lots.
6. Purchase civic number signs for each of the four created lots.
7. Planning Report fee payable to the Municipality.



**CORPORATION OF THE COUNTY OF ELGIN**

**NOTICE OF APPLICATION FOR CONSENT**

**APPLICATION NO. E 33-21**

**PART LOT 22, CONCESSION 8  
MUNICIPALITY OF BAYHAM  
MUNICIPAL ADDRESS: 11265 PLANK ROAD**

**TAKE NOTICE that** an application has been made by **Jesse Froese** 55903 Maple Grove Line, Eden, Ontario, N0J 1H0 for a consent pursuant to Section 53 of the Planning Act, 1990, as amended, to sever lands municipally known as 11265 Plank Road, Municipality of Bayham.

The applicants propose to sever a parcel with a frontage of 22 metres (2.17 feet) along Plank Road by a depth of 60 metres (196.85 feet) and an area of 0.13 hectares (0.32 acres) for future residential use. The owners are retaining 7.28 hectares (18.0 acres) proposed to remain in agricultural use.

The location of the property is shown on the Key Map attached.

**ADDITIONAL INFORMATION** regarding the application is available for inspection daily, Monday to Friday, between 8:30 A.M. and 4:30 P.M., at the County Municipal Offices, 450 Sunset Drive, St. Thomas or at a Public Hearing to be held on:

**WEDNESDAY May 26, 2021 AT 10:25 AM.  
BY VIDEO/TELEPHONE CONFERENCE OR IN PERSON AT  
Council Chambers, County Municipal Offices, 450 Sunset Drive, St. Thomas**

Any person or public body may attend the Public Hearing and/or make written or verbal representation either in support of, or in opposition to the proposed consent.

**PLEASE NOTE: YOUR PARTICIPATION BY VIDEO/TELECONFERENCE IS PREFERRED.**

**DUE TO PROVINCIAL ORDERS, ATTENDANCE IN PERSON MAY BE RESTRICTED. PLEASE CONTACT [npasato@elgin.ca](mailto:npasato@elgin.ca) AT LEAST 24 HOURS BEFORE THE MEETING TO ARRANGE FOR VIDEO/TELECONFERENCE OR TELEPHONE INFORMATION, OR TO CONFIRM IF IN PERSON ATTENDANCE IS POSSIBLE.**

If you wish to be notified of the decision of the Land Division Committee in respect of the proposed consent, you must submit a written request to the Land Division Committee. This will also entitle you to be advised of any appeal to the Local Planning Appeal Tribunal.

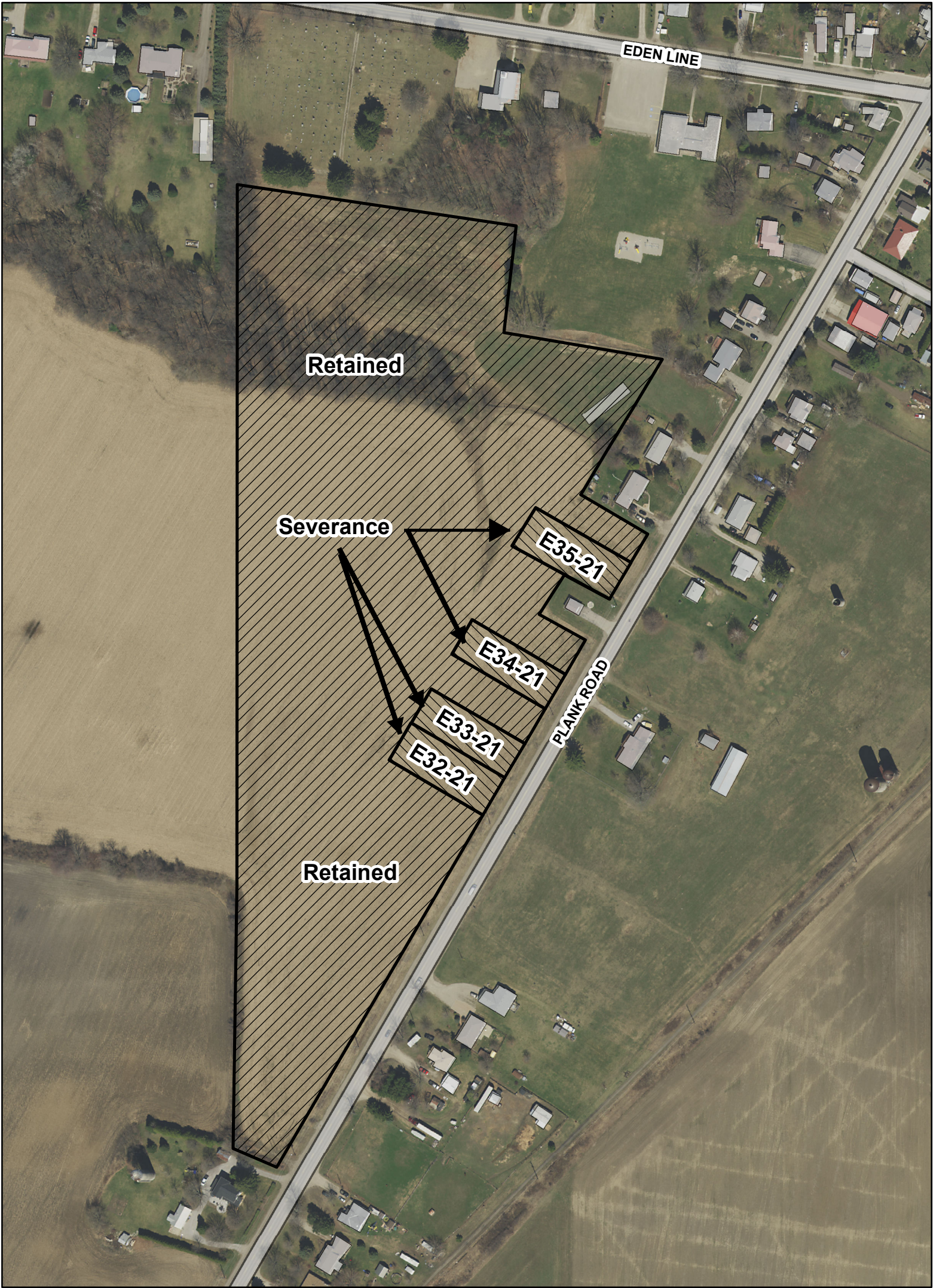
If a person or public body that files an appeal of a decision of the Land Division Committee in respect of the proposed consent does not make written or oral submissions to the Land Division Committee before it gives or refuses to give a provisional consent, the Local Planning Appeal Tribunal may dismiss the appeal.

Dated at the Municipality of Central Elgin this 5<sup>th</sup> day of May, 2021.

Nancy Pasato  
Acting Secretary-Treasurer  
Land Division Committee

**County of Elgin  
Planning Department**  
450 Sunset Drive  
St. Thomas, Ontario  
N5R 5V1 Canada  
Phone: 519-631-1460  
Fax: 519-631-4549

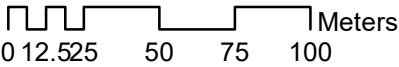




*Location Map*






Subject Site: 11265 Plank road  
File Number: E32-2021, E33-2021, E34-2021, E35-2021  
Owner: Jesse Froese  
Planner: Nancy Pasato  
Created By: AL  
Date: 05/05/2021

The Corporation of the County Elgin  
Prepared By: Planning and Development

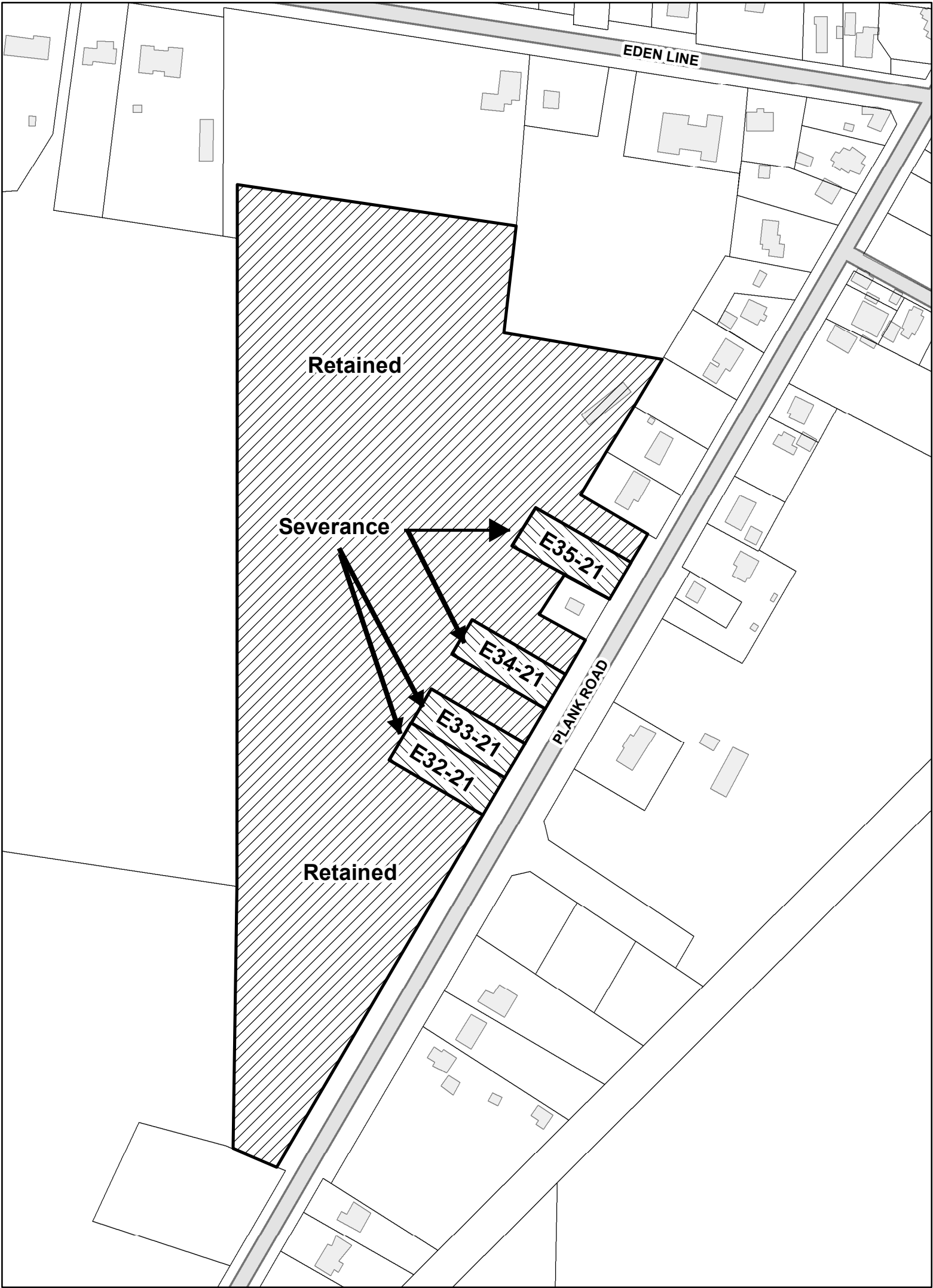


Scale 1:2,500

*Legend*

-  Subject Site
-  Severance
-  Retained
-  Elgin Road Network
-  Buildings

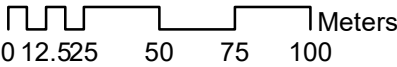




*Location Map*

Subject Site: 11265 Plank road  
File Number: E32-2021, E33-2021, E34-2021, E35-2021  
Owner: Jesse Froese  
Planner: Nancy Pasato  
Created By: AL  
Date: 05/05/2021

The Corporation of the County Elgin  
Prepared By: Planning and Development



Scale 1:2,500

*Legend*

- Subject Site
- Severance
- Retained
- Elgin Road Network
- Buildings

Municipality of  
**BAYHAM**

A: P.O. Box 160, 56169 Heritage Line  
Straffordville, ON N0J 1Y0

T: 519-866-5521

F: 519-866-3884

E: [bayham@bayham.on.ca](mailto:bayham@bayham.on.ca)

W: [www.bayham.on.ca](http://www.bayham.on.ca)



May 10, 2021

EMAIL ONLY

Nancy Pasato, Acting Secretary-Treasurer  
Elgin County Land Division Committee  
450 Sunset Drive  
St. Thomas ON N5R 5V1

Dear Ms. Pasato,

**Re: Application for Consent No. E32-35-21 Froese**

Please be advised that the Council of the Municipality of Bayham passed the following resolution adopted at the May 6, 2021 meeting:

**THAT Report DS-27/21 regarding the Consent Applications E32-21 – E35-21 submitted by Jesse Froese be received;**

**AND THAT Council recommend to the Elgin County Land Division Committee that Consent Applications E32-35/21 be granted subject to the following conditions:**

- 1. Installation of individual private wells with water quantity and water quality reports for bacteria and nitrates content meeting the Provincial standards for residential use, as a matter of public health and safety**
- 2. Engineer designed overall lot grading/drainage plan showing direct connection to the existing Municipal Drain**
- 3. Rezoning of the severed lands to remove the Holding (h2) Zone by entering into a Subdivision Agreement with the municipality**
- 4. Digital copy of the registered plan of survey**
- 5. Cash in Lieu of Parkland Dedication fee for each of four created lots**
- 6. Purchase civic number signs for each of four created lots**
- 7. Planning Report fee payable to the Municipality**

Municipal Appraisal Sheet and Staff Report DS-27/21 emailed with this letter. If you have any questions or require additional information, please do not hesitate to contact me.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Margaret Underhill', is written over a light blue horizontal line.

Margaret Underhill  
Acting Clerk/Planning Coordinator

## MUNICIPAL APPRAISAL SHEET – LAND DIVISION COMMITTEE

**Your assistance is requested in answering the questions below. Please complete Parts 1 and 2 and submit to the Secretary Treasurer of the Land Division Committee as soon as possible. Please complete and submit Part 3 once the local Council has provided a recommendation on the application.**

Submission E 32 – 35-21

Applicant Jesse Froese

Location Bayham – 11265 Plank Rd, Concession 8 Part Lot 22

### PART 1 - OFFICIAL PLAN

1. Is there an O.P. in effect? Yes ( X ) No ( )

2. Does the proposal conform with the O.P.? Yes ( X ) No ( )

Land Use Designation: Hamlets

Policies: OP 4.4.2.2

### PART 2 - ZONING

3. Is there a By-Law in effect? Yes ( X ) No ( )

4. Does the proposal conform with all requirements of the By-Law? Yes ( ) No ( X )

Comments: Zoning: Hamlet Residential (HR(h2)) and portion in LPRCA Regulation Limit

Rezoning required to remove the Holding 2 provision by entering into a Subdivision Agreement

5. If not, is the Municipality prepared to amend the By-Law? Yes ( X ) No ( )  
Rezoning application required

PART 3 – COUNCIL RECOMMENDATION – please complete below and send to the Secretary Treasurer of the Land Division Committee and attached any comments, staff reports(s) and Council resolutions/recommendations

6. Does the Municipality foresee demand for new municipal services? Yes ( X ) No ( )

7. If so, is the Municipality prepared to provide those services? Yes ( X ) No ( )

8. Does the Municipality wish the Committee to impose conditions? Yes ( X ) No ( )

9. Does Council recommend the application? Yes ( X ) No ( )

10. Does the municipality have other concerns that should be considered by the Committee?

Staff Report and Resolution attached – Council meeting held May 6, 2021

- f) New hamlet commercial or industrial uses shall be included in a separate zoning category in the Zoning By-law and existing commercial and industrial facilities should also be so recognized in the zoning by-law;
- g) Adequate off-street parking shall be provided;
- h) Adequate buffer planting shall be provided between the hamlet commercial or industrial use and any adjacent residential areas, and such buffer planting may include provisions for grass strips, fences, and appropriate planting of trees and shrubs.

#### 4.4.2 **Residential Uses**

4.4.2.1 The principal land use function of “Hamlets” shall be for clusters of non-farm residential development in the form of single detached dwellings, and other low or medium density types of dwellings. These uses will be controlled and regulated by the Zoning By-law.

4.4.2.2 Consents will generally be discouraged and will only be granted when it is clearly not necessary in the public interest that a plan of subdivision be registered. If a plan of subdivision is not deemed necessary, regard shall be had to other policies in the Official Plan and to the following criteria when considering an application for a consent in the Hamlet areas:

- a) Consents shall be granted only in areas where the minor, or no extension of any municipal service would be required. Any services required in a consent should be satisfactory to the appropriate approval authority;
- b) Consents should be granted only when the land fronts on an existing public road, which is of a reasonable standard of construction;
- c) Consents should have the effect of infilling in existing developed areas and not of extending the Hamlet area unduly;
- d) The size of any parcel of land created by a consent should be appropriate for the use proposed considering the public services available and the soil conditions, and in no case should any parcel be created which does not conform to the provisions of the Zoning By-law;
- e) Direct access from major roads should be restricted and residential lots should, where possible, have access only from internal residential roads;

- f) Consents should not be granted for land adjacent to a road from which access is to be obtained where a traffic hazard would be created because of limited sight lines on curves or grades;
- g) Consents should be granted only when the creation of the lot will not interfere with subsequent access to interior lands;
- h) Consents for mortgage, estate, or other boundary adjustment purposes shall be permitted provided that they adhere to principles of good planning, do not cause land use conflicts and conform to the provisions of the Zoning By-law.

4.4.2.3 It is the intention of this Plan to allow for the eventual development of other residential types such as multiple unit dwellings and single unit mobile home parks within the residential areas of the “Hamlets”. These residential types shall be included in separate zoning categories in the Zoning By-law and will be permitted, providing that municipal water and sewer services are available, and an amendment to the Zoning By-law has been approved.

4.4.2.4 Consideration of the following factors shall be given in the evaluation of an amendment to the Zoning By-law for multi-unit residential developments:

- a) The uses permitted shall include the various types of multiple dwellings such as townhouses, converted dwellings and walk-up apartments;
- b) The multiple unit dwellings shall be sited to enhance the quality of the immediate area with particular attention to the effects of vehicular and pedestrian traffic generation;
- c) Adequate off-street parking shall be provided;
- d) Multiple unit dwellings will only be permitted in areas where municipal water and sewer services are available.

#### 4.4.3 **Commercial Uses**

4.4.3.1 The general principles to be considered in the development and zoning of commercial uses in the “Hamlets” are as follows:

- a) The uses permitted in this land use category are those uses that may serve local residents or the entire Municipality. These uses may include



### 3.3 Holding Zones

In any zone which is accompanied by the holding symbol "h", the uses normally permitted by that zone for lands, buildings or structures may only be allowed when the holding symbol is removed by amendment to this By-law or any subsequent holding by-law. Permitted uses, when the holding symbol (h) is applied, are limited to those that existed on the date when the holding by-law was passed. The purpose of individual holding zones is as follows:

Z611-2012

a) h1 Purpose: To ensure public health and safety, an agreement with the Municipality, or the satisfying of conditions of severance, which address impacts of new development to the applicable proposed water supply system and/or sewage treatment and disposal system; and which may include issues relating to water capacity, water quantity, water quality, and financial costs will be required prior to the removal of the "h1" zone symbol.

b) h2 Purpose: To ensure orderly development, a subdivision agreement with the Municipality, which addresses financial and servicing impacts of new development to the Municipality, will be required prior to the removal of the "h2" zone symbol.

c) h3 Purpose: To ensure the mitigation of impacts to natural heritage features and their ecological functions, an Environmental Impact Study will be required prior to the removal of the "h3" zone symbol.

d) h4 Purpose: To ensure parcels of land do not become landlocked, proof of access to a public right-of-way by the proponent will be required prior to the removal of the "h4" zone symbol.

Z655-2016

e) h5 Purpose: To ensure parcels of land meet Ministry of the Environment, Conservation and Parks requirements, a record of site condition shall be prepared and accepted prior to development of the lands.

Z701-2020

f) h6 Purpose: To ensure that development takes a form compatible with adjacent land uses, Agreement(s) with the Municipality shall be entered into following a public site plan review process specifying the issues allowed for under Section 41 of the Planning Act, as amended from time to time, prior to removal of the "h6" symbol.

### 3.4 Application of Regulations

No person shall within any zone use any land or erect, build, construct, reconstruct, relocate, excavate for, alter, add to, enlarge, extend or use any building or structure, except in conformity with this By-law for the zone in which such land, building, structure or use is located.

### 3.5 Defined Areas

All zones may be subdivided into one or more defined areas within which greater or lesser restrictions shall apply. These defined areas shall be designated by reference to the symbol of the zone within which each such defined area is located together with a number so as to differentiate different defined areas within a zone

## **SECTION 9      HAMLET RESIDENTIAL (HR) ZONE REGULATIONS**

### **9.1    Permitted Uses**

No land shall be used and no buildings or structures shall be erected, used or altered in the Hamlet Residential (HR) Zone except for the following purposes:

One single detached dwelling on one lot;

Bed and Breakfast Lodging or Tourist Home;

Converted dwelling;

Home occupation;

Private garage or carport as an accessory use;

Accessory use.

### **9.2    Minimum Lot Area**

No public water supply or sanitary sewage disposal service: 1,390 m<sup>2</sup>

**Z698-2020**

Public water supply, but no sanitary sewage disposal service: 1,100 m<sup>2</sup>

Public sanitary sewage disposal service, but no public water supply: 900 m<sup>2</sup>

### **9.3    Minimum Lot Frontage**

20.0m

**Z698-2020**

### **9.4    Maximum Lot Coverage**

30%

### **9.5    Maximum Building Height**

10.5m

9.5.1      Maximum Accessory Building Height: 4.5m

### **9.6    Minimum Floor Area**

**Z698-2020**

### **9.7    Maximum Floor Area for an Accessory Building**

75 m<sup>2</sup> or 8% lot coverage, whichever is less

### **9.8    Minimum Front Yard Depth**

7.0 metres

### **9.9    Minimum Side Yard Width**

Single detached dwelling with an attached garage or carport:	1.2 metres plus 0.5 metres for each additional or partial storey above the first storey
Single detached dwelling without an attached garage or carport:	1.2 metres plus 0.5 metres for each additional or partial storey above the first



	storey for one side and 3.0 metres on the other side
Single detached dwelling situated on a corner lot:	4.5 metres on the side abutting a public street and 1.2 metres plus 0.5 metres for each additional or partial storey above the first storey on the other side

9.10 **Minimum Rear Yard Depth**

9.0m

9.11 **Minimum Separation Distance**

From the edge of a railway right-of-way: 30.0 metres

9.12 **Exceptions - Hamlet Residential (HR) Zone**

9.12.1

9.12.1.1 **Defined Area**

HR-1 as shown on Schedule "B" to this By-law.

9.12.1.2 **Permitted Uses**

Commercial Greenhouse in addition to all other uses permitted in the Hamlet Residential (HR) Zone.

9.12.1.3 **Permitted Buildings and Structures**

Buildings and structures for the permitted uses.

9.12.1.4 **Minimum Lot Area**

975 square metres

9.12.1.5 **Minimum Lot Frontage**

- I. For a commercial greenhouse: 16 metres
- II. For a residential dwelling: 14.5 metres

9.12.1.6 **Minimum Side Yard**

2 metres on each side of each building in compliance with subsection 4.25.

9.12.2

9.12.2.1 **Defined Area**

HR-2 as shown on Schedule "E" to this By-law.

9.12.2.2 **Permitted Uses**

Service shop

Inside storage

Pumphouse for a communal well system

In addition to all other uses permitted in the Hamlet Residential (HR) Zone



# REPORT

## DEVELOPMENT SERVICES

**TO:** Mayor & Members of Council

**FROM:** Margaret Underhill, Deputy Clerk/Planning Coordinator

**DATE:** May 6, 2021

**REPORT:** DS-27/21

**FILE NO. C-07 / D09.21 Froese**

**Roll # 3401-000-006-07600**

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**SUBJECT:** Consent Applications E32-21, E33-21, E34-21 and E35-21 Froese, J - Eden

---

### BACKGROUND:

Four consent applications E32-21 – E35-21 were received from the Elgin County Land Division Committee submitted by Appointed Agent Andrew Gilvesy on behalf of Jesse Froese proposing to sever four lots with frontages varying from 22 metres to 25.43 metres (72 – 83 ft) and equal depths at 60.0 m (196.8 ft). The owner would retain 6.99 ha (17.3 ac).

The subject land is described as Concession 8 Part of Lot 22, known municipally as 11265 Plank Rd, south of Eden Line on the west side of Plank Rd. The land is within the boundary of the Hamlet of Eden. Lands are designated "Hamlet" on Schedule 'D' Municipality of Bayham Land Use in the Official Plan. Lands are zoned Hamlet Residential Holding (HR-h2) Zone in Zoning By-law No. Z456-2003.

Elgin County Land Division Committee will consider the applications on May 26, 2021.

### DISCUSSION:

The four lots may be considered as infilling in a settlement area with the retained lands subject to a future plan of subdivision. When considering multiple lot development, careful consideration must be given to the overall development, potential servicing, surface water management and drainage.

The lots will require private wells and will connect to the existing sanitary sewer stubs at the lot line. The owner will have to provide acceptable water quality and quantity testing results meeting provincial standards for residential use. An Engineer / Surveyor designed overall lot grading/drainage plan with a direct connection to the existing municipal drain is required showing as much surface water as possible directed to the drain, which may require private tile

branches and catch basins. Fire Services also encourage all homebuilders to install residential sprinklers for health and safety.

The severed lands require rezoning to remove the Holding (h2) Zoning by entering into a Subdivision Agreement with the municipality. In addition, our standard conditions are to require civic numbering signage, survey, cash in lieu payment for the creation of building lots, planning report fee and engineer design lot grading/drainage plan.

Staff and municipal planner recommend Council support of the consent applications for the creation of four lots with one retained parcel fronting on Plank Rd in the Hamlet of Eden.

#### **ATTACHMENTS**

1. Consent Applications E32-21 – E35-21 Froese, J (complete E32-21 application; E33-21 – E35-21 only portions of application attached)
2. IBI Group Memorandum dated April 26, 2021

#### **RECOMMENDATION**

**THAT Report DS-27/21 regarding the Consent Applications E32-21 – E35-21 submitted by Jesse Froese be received;**

**AND THAT Council recommend to the Elgin County Land Division Committee that Consent Applications E32-35/21 be granted subject to the following conditions:**


1. Installation of individual private wells with water quantity and water quality reports for bacteria and nitrates content meeting the Provincial standards for residential use, as a matter of public health and safety
2. Engineer designed overall lot grading/drainage plan showing direct connection to the existing Municipal Drain
3. Rezoning of the severed lands to remove the Holding (h2) Zone by entering into a Subdivision Agreement with the municipality
4. Digital copy of the registered plan of survey
5. Cash in Lieu of Parkland Dedication fee for each of four created lots
6. Purchase civic number signs for each of four created lots
7. Planning Report fee payable to the Municipality

Respectfully Submitted by:



Margaret Underhill  
Deputy Clerk|Planning Coordinator

Reviewed by:

  
Thomas Thayer  
CAO|Clerk



IBI GROUP  
203 – 350 Oxford Street West  
London ON N6H 1T3 Canada  
tel 519 472 7328  
ibigroup.com

# Memorandum

<b>To/Attention</b>	Municipality of Bayham	<b>Date</b>	April 26, 2021
<b>From</b>	Paul Riley, BA, CPT	<b>Project No</b>	3404-814
<b>cc</b>	William Pol, MCIP, RPP		
<b>Subject</b>	Jesse Froese - 11265 Plank Road, Eden - Application for Consent E32/21, E33/21, E34/21, E35/21		

1. We have completed our review of Consent Applications E32/21 – E35/21 submitted by Andrew Gilvesy (CJDL Engineering) on behalf of his client, Jesse Froese, for lands legally known as Part of Lot 22 Concession 8 Bayham, known municipally as 11265 Plank Road, south of Eden Line on the west side of Plank Road. The applicant is requesting Consent to sever four (4) 0.13-0.15 ha (0.32 – 0.37 ac) parcels of land for residential purposes and to retain the remainder as vacant farmland. The lands are designated Hamlets on Schedule 'A1' Municipality of Bayham: Land Use in the Municipality of Bayham Official Plan. The lands are zoned Holding Hamlet Residential Zone (HR(h2)) on Schedule 'D' Eden in Zoning By-law Z456-2003. A portion of the subject lands is located within the Long Point Region Conservation Authority (LPRCA) Regulation Limit overlay of the Zoning By-law.
2. The existing lot is 7.7 ha (19 ac) in area with 183.8 m (603.1 ft) of frontage on Plank Road. These lands are currently vacant and mostly farmed. Surrounding uses are residential to the north, residential and agricultural to the south and east and agricultural to the west.
3. Consent application E32/21 (Part A) will have lot area of 0.14 ha (0.34 ac), lot frontage of 23.19 m (76 ft) and lot depth of 60.0 m (196 ft). Consent applications E33/20 (Part B) and E34/21 (Part C) will each have lot area of 0.13 ha (0.32 ac), lot frontage of 22 m (72 ft) and lot depth of 60.0 m. Consent application E35/21 (Part D) will have lot area of 0.15 ha (0.37 ac), lot frontage of 25.43 m (83 ft) and lot depth of 60.0 m. The retained parcel will have lot area of 6.99 ha (17.3 ac), lot frontage of 290.8 m (954 ft) and irregular lot depth.
4. The subject lands are designated Hamlets by the Municipality of Bayham Official Plan. The principal land use function within this designation is intended to be clusters of non-farm residential development in the form of single detached dwellings and other low/medium density development. Consents will generally be discouraged and only granted when a Plan of Subdivision is not required to protect the public interest. The proposal to create a four lots with frontage on Plank Road and where municipal sanitary sewers are available would not require Plan of Subdivision, therefore, creation of these lots by Consent is appropriate.



Municipality of Bayham – April 26, 2021

5. Section 4.4.2.2 of the Official Plan sets out criteria for Consents within the Hamlet designation, outlined below:

- a) There is an existing municipal sewer line (with stubs) along Plank Road, therefore, no extension of municipal services is required. The owner will connect the new dwellings to the existing municipal sewer line.
- b) The proposed residential lots front on Plank Road, an adequate existing road.
- c) The lands are within the hamlet and have the effect of infilling in an existing developed area.
- d) The size of the proposed lots is appropriate for residential purposes. The proposed lots meet the minimum frontage and lot area regulations of the HR zone, have adequate area to develop private water services (well) and is of adequate configuration and size to accommodate the required setbacks.
- e) Within the hamlet area Plank Road has reduced traffic speeds and the proposed accesses directly to Plank Road are in keeping with the existing pattern of development in Eden.
- f) Based on a desktop review of streetview and aerial images of Plank Road at the subject lands, the road appears flat and straight which suggests that no traffic hazard due to sightlines would be created.
- g) The creation of the lots will not interfere with subsequent access to the retained lands as the conceptual subdivision plan shows a retained access to the south of Part A and to the north of Part D. The retained frontage north of Part D provides for a 20.12 m roadway access which is adequate for future development.
- h) Not applicable.

Based on a review of the above criteria, the proposed lots have adequate frontage on an existing roadway where traffic hazards are not created, there are municipal sewer connections at the roadway, the severed and retained lots meet the minimum lot area requirements of the Zoning By-law and can accommodate single-detached dwellings meeting the setback requirements of the HR zone and access to the interior lands is not interfered with. Development of the severed lands for residential purposes will require the applicant to connect to the existing municipal sewer services and to construct a private water service (well). The proposed Consent(s) are in conformity to the Official Plan.

6. The subject lands are zoned HR(h2) in Zoning By-law Z456-2003, where a single-detached dwelling is a listed permitted use. The minimum lot frontage in the HR zone is 20.0 m (65.6 ft) and the minimum lot area is 0.09 ha (0.22 ac) for lots with municipal sewer services and private water services. The proposed and retained lots frontage and area exceed the minimum requirements of the HR zone. The proposed lots will

Municipality of Bayham – April 26, 2021

be developed in compliance to the regulations of the Zoning By-law for setbacks and required yards. The LPRCA Regulation Limit lands are not impacted by the proposed severances.

7. The purpose of the “h2” holding symbol is to ensure orderly development by requiring the applicant enters into a subdivision agreement with the Municipality, which addresses financial and servicing impacts of new development to the Municipality, prior to the removal of the holding symbol. The proposed Consent(s) comply to the Zoning By-law provided the applicant enter into an agreement with the Municipality and apply to remove the h2 holding symbol.
8. Based on the above review of Consent Applications E32/21 – E35/21, we have no objection to the proposed Consent to create four (4) additional lots in the Hamlet of Eden and recommend the following Conditions for Consent Approval:
  - a) That the owner rezones the severed lands to remove the Holding (h2) Zoning by entering into a Subdivision Agreement with the Municipality.
  - b) That the owner provides a survey of the lands.
  - c) That the owner provides private well test results confirming adequate water quality and quantity for residential use that meets provincial standards for the severed lots.
  - d) That the owner provides preliminary lot grading plans to demonstrate that the proposed residential lots will not have a negative drainage impact on abutting lots.
  - e) That the applicant applies and pay's all fees to the Municipality with respect to Civic Addressing/signage for the severed lots.
  - f) That the applicant provides a Planning Report Fee payable to the Municipality of Bayham.
  - g) That the applicant provides parkland dedication fee of \$2,000.00 to the Municipality of Bayham for each new lot in accordance with By-Law 2020-053.

*Paul Riley*

IBI Group  
Paul Riley

Consulting Planner to the  
Municipality of Bayham

**COUNTY OF ELGIN ROAD SYSTEM**

DATE: May 6, 2021 ELGIN COUNTY ROAD NO.: 19 - 11265 Plank Road

TO: THE COUNTY OF ELGIN LAND DIVISION COMMITTEE

RE:

APPLICATION NO.: E 32-21 – E 35-21

OWNER: Jesse Froese

PROPERTY: LOT NO. Part Lot 22 CONCESSION: 8

REG'D PLAN: MUNICIPALITY: Bayham

The notice of the above application on the above premises has been received and I have the following comments to make:

- 1) Land for road widening is required .....  
*[Section 51 (25) of the Planning Act - That the owner dedicate lands along the frontage of the severed and retained lots/parcels up to 18 m from the centreline of construction of Plank Road County Road (19) to the County of Elgin for the purposes of road widening if the right of way is not already to that width, to the satisfaction of the County Engineer. All costs to be borne by the owner.*

X
- 2) A one-foot reserve is required along the N \_\_\_\_\_,  
S \_\_\_\_\_, E \_\_\_\_\_ and/or W \_\_\_\_\_ property line .....
- 3) Drainage pipes and/or catchbasin(s) are required .....
- 4) A Drainage Report is required under the Drainage Act \* (By Professional Engineer).....
- 5) A curb and gutter is required along the frontage .....
- 6) Direct Connection to a legal outlet for the severed lot is required - If an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited.....

X
- 7) Technical Reports .....
- 8) That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed and retained parcels. All costs associated with this shall be borne by the owner.....

X
- 9) Lot Grading Plan is required for the severed lot.....

X
- 10) The County has no concerns.....
- 11) Not on County Road .....
- 12) Please provide me with a copy of your action on this application .....
- 13) Other...

Note: These lands are subject to County of Elgin By-Law No. 92-57, as amended by By-Law No. 96-45, and any amendments made thereto hereafter, being a by-law to regulate the construction or alteration of any entranceway, private roads or access to a County road.



BRIAN LIMA, P. ENG.  
DIRECTOR OF ENGINEERING SERVICES





**County of Elgin**  
450 Sunset Drive  
St. Thomas, Ontario  
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www.elgin-county.on.ca

APPLICATION FOR CONSENT PURSUANT TO SECTION 53 OF THE PLANNING ACT,  
1990, AS AMENDED.

**To:** Elgin County Land Division Committee  
**From:** Nancy Pasato, Manager of Planning  
**Date:** May 26, 2021  
**Application:** E 33-21

**Owner:**  
**Jesse Froese**  
55903 Maple Grove Line  
Eden, ON N0J 1H0

**Agent:**  
**Andrew Gilvesy**  
261 Broadway P.O. Box 460  
Tillsonburg, ON N4G 4H8

**Location:** 11265 Plank Road, know legally as PART LOT 22 CON 8, Municipality of Bayham.

**PROPOSAL**

The applicants propose to sever a parcel with a frontage of 22 metres (2.17 feet) along Plank Road by a depth of 60 metres (196.85 feet) and an area of 0.13 hectares (0.32 acres) for future residential use. The owners are retaining 7.28 hectares (18.0 acres) proposed to remain in agricultural use.

**County of Elgin Official  
Plan**  
Settlement Area Tier 2

**Local Municipality Official  
Plan**  
Hamlets

**Local Municipality Zoning  
By-law**  
Hamlet Residential (HR(h2))

**REVIEW & ANALYSIS:**

**Public and Agency Comments**

*Municipality of Bayham* - recommends to the Elgin County Land Division Committee that consent applications E32-35-21 be granted subject to the provided conditions.

*County Engineering* – no objections. Conditions 3, 4, 5 & 6 regarding right of way, direct connection, a potential entrance permit and lot grading must be satisfied.

**Planning Act and Provincial Policy Statement**

In considering this application, staff must have regard to matters of Provincial Interest in accordance with Section 2 of the Planning Act (PA), and subdivision criteria in accordance with Section 51(24) of the PA.

The application shall also be consistent with the 2020 Provincial Policy Statement (PPS). Policy 1.1.4 (Rural Areas in Municipalities) outlines that settlement areas are to be the focus of growth and development within municipalities and land use patterns within settlement areas shall be based on densities and a mix of land uses. Additionally, land use patterns within settlement areas shall also be based on a range of uses and opportunities for intensification and redevelopment in accordance with the criteria in policy 1.1.3.3, where this can be accommodated.

The Applicant has indicated the severed portion of the lands will be created for future residential use. The retained parcel of the lands will be used for the existing agricultural purpose. The proposed severed lots are within a settlement area.

#### County of Elgin Official Plan

The settlement areas in the County are divided into three tiers based on their scale, function, and the level of services that exist in each settlement. The subject site is designated Settlement Area Tier 2 in the Elgin County Official Plan (OP). The second tier includes those settlement areas which are generally smaller in population than Tier 1 settlement areas and are on partial services (municipal water/individual onsite sewage services or individual on-site water/municipal sewage services). Limited development (including lot creation) is permitted in these settlement areas given the absence of full municipal services.

The applicant has indicated that the proposed development (i.e. lot creation) will be partially serviced (privately owned and operated individual well and a publicly owned and operated sewage system).

Development on partial services is permitted to allow for infilling and rounding out of existing development provided that:

- a) the proposed development is within the reserve sewage system capacity and reserve water system capacity; and
- b) site conditions are suitable for long-term provision of such services.

Section E.1.2.3.1 General Criteria outlines that consents may be supported subject to the application not creating any new traffic issues or hazards with appropriate access permitting; the proposed retained and severed lots have adequate size and frontage in accordance with the Zoning By-law; all other regulations of the Zoning By-law can be met; appropriate servicing exists or will exist; and the application will not have any adverse impacts on drainage, development of the retained lands, natural heritage or natural hazards. The applicant has addressed the abovementioned criteria and planning staff is satisfied there will be no adverse impacts as a result of this lot creation.

#### Local Municipality Official Plan and Zoning By-law

The subject lands are designated as Hamlets in the Municipality of Bayham Official Plan. The principle land use function within this designation is clusters of non-farm residential development in the form of single detached dwellings and other low/medium density development. Consents are generally discouraged and only supported by the municipality when a Plan of Subdivision is not required to protect the public interest. The proposal to create four lots where municipal sanitary sewers are available, would not require a Plan of Subdivision, and therefore the creation of these lots by consent is appropriate.

The subject lands are designated Hamlet Residential (HR(h2)), with a holding provision indicated by the "h2". The purpose of the "h2" holding symbol is to ensure orderly development by requiring the applicant to enter into a subdivision agreement with the

municipality. Therefore, the severed lands will require a rezoning to remove the Holding (h2) Zoning by entering into a Subdivision Agreement with the municipality.

**RECOMMENDATION:**

This application for consent is consistent with both the 2020 Provincial Policy Statement and complies with the County of Elgin Official Plan regarding lot creation in agricultural areas. As such, planning staff is of the opinion that the application is acceptable from a planning perspective and recommends approval subject to the following conditions:

1. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
2. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed
3. That the owners dedicate lands along the frontage of the severed and retained lots/parcels up to 18m from the centerline of construction of Plank Road County Road 19 to the County of Elgin for the purposes of road widening if the right of way is not already to that width, to the satisfaction of the County Engineer. All costs to be borne by the owner.
4. Direct connection to a legal outlet for the severed lot is required. If an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited;
5. That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed parcel. All costs associated with this shall be borne by the owner; and
6. A lot grading plan is required for the severed lot.
7. The applicant shall provide to the Land Division Committee a signed acknowledgement and undertaking confirming:
  - a. That the applicant has been advised that the Ontario Building Code Act requires confirmation of servicing including an individual on-site potable water supply and/or an individual on-site sewage system prior to the issuance of a building permit;
  - b. That the applicant has made the necessary inquiries of the Municipality to determine the work necessary in order to confirm that the site conditions are suitable for the long-term provision of such services with no negative impact; and
  - c. That the applicant undertakes to advise any future purchaser of the above acknowledgement and the results of such inquiries.
8. That the Municipality confirms that there is sufficient reserve sewage treatment capacity within the municipal sewage treatment system.

Additionally, it is recommended that the following conditions from the Municipality of Bayham be included as conditions for consent:

1. Installation of individual private wells with water quantity and water quality reports for bacteria and nitrates content meeting the Provincial standards for residential use, as a matter of public health and safety.
2. Engineer designed overall lot grading/drainage plan showing direct connection to the existing Municipal Drain.



**County of Elgin**  
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3. Rezoning of the severed lands to remove the Holding (h2) Zone by entering into a Subdivision Agreement with the municipality.
4. Digital copy of the registered plan of survey.
5. Cash in Lieu of Parkland Dedication fee for each of the four created lots.
6. Purchase civic number signs for each of the four created lots.
7. Planning Report fee payable to the Municipality.



**CORPORATION OF THE COUNTY OF ELGIN**

**NOTICE OF APPLICATION FOR CONSENT**

**APPLICATION NO. E 34-21**

**PART LOT 22, CONCESSION 8  
MUNICIPALITY OF BAYHAM  
MUNICIPAL ADDRESS: 11265 PLANK ROAD**

**TAKE NOTICE that** an application has been made by **Jesse Froese**, 55903 Maple Grove Line, Eden, Ontario, N0J 1H0 for a consent pursuant to Section 53 of the Planning Act, 1990, as amended, to sever lands municipally known as 11265 Plank Road, Municipality of Bayham.

The applicants propose to sever a parcel with a frontage of 22 metres (2.17 feet) along Plank Road by a depth of 60 metres (196.85 feet) and an area of 0.13 hectares (0.32 acres) for future residential use. The owners are retaining 7.14 hectares (17.64 acres) proposed to remain in agricultural use.

The location of the property is shown on the Key Map attached.

**ADDITIONAL INFORMATION** regarding the application is available for inspection daily, Monday to Friday, between 8:30 A.M. and 4:30 P.M., at the County Municipal Offices, 450 Sunset Drive, St. Thomas or at a Public Hearing to be held on:

**WEDNESDAY May 26, 2021 AT 10:25 AM.  
BY VIDEO/TELEPHONE CONFERENCE OR IN PERSON AT  
Council Chambers, County Municipal Offices, 450 Sunset Drive, St. Thomas**

Any person or public body may attend the Public Hearing and/or make written or verbal representation either in support of, or in opposition to the proposed consent.

**PLEASE NOTE: YOUR PARTICIPATION BY VIDEO/TELECONFERENCE IS PREFERRED.**

**DUE TO PROVINCIAL ORDERS, ATTENDANCE IN PERSON MAY BE RESTRICTED. PLEASE CONTACT [npasato@elgin.ca](mailto:npasato@elgin.ca) AT LEAST 24 HOURS BEFORE THE MEETING TO ARRANGE FOR VIDEO/TELECONFERENCE OR TELEPHONE INFORMATION, OR TO CONFIRM IF IN PERSON ATTENDANCE IS POSSIBLE.**

If you wish to be notified of the decision of the Land Division Committee in respect of the proposed consent, you must submit a written request to the Land Division Committee. This will also entitle you to be advised of any appeal to the Local Planning Appeal Tribunal.

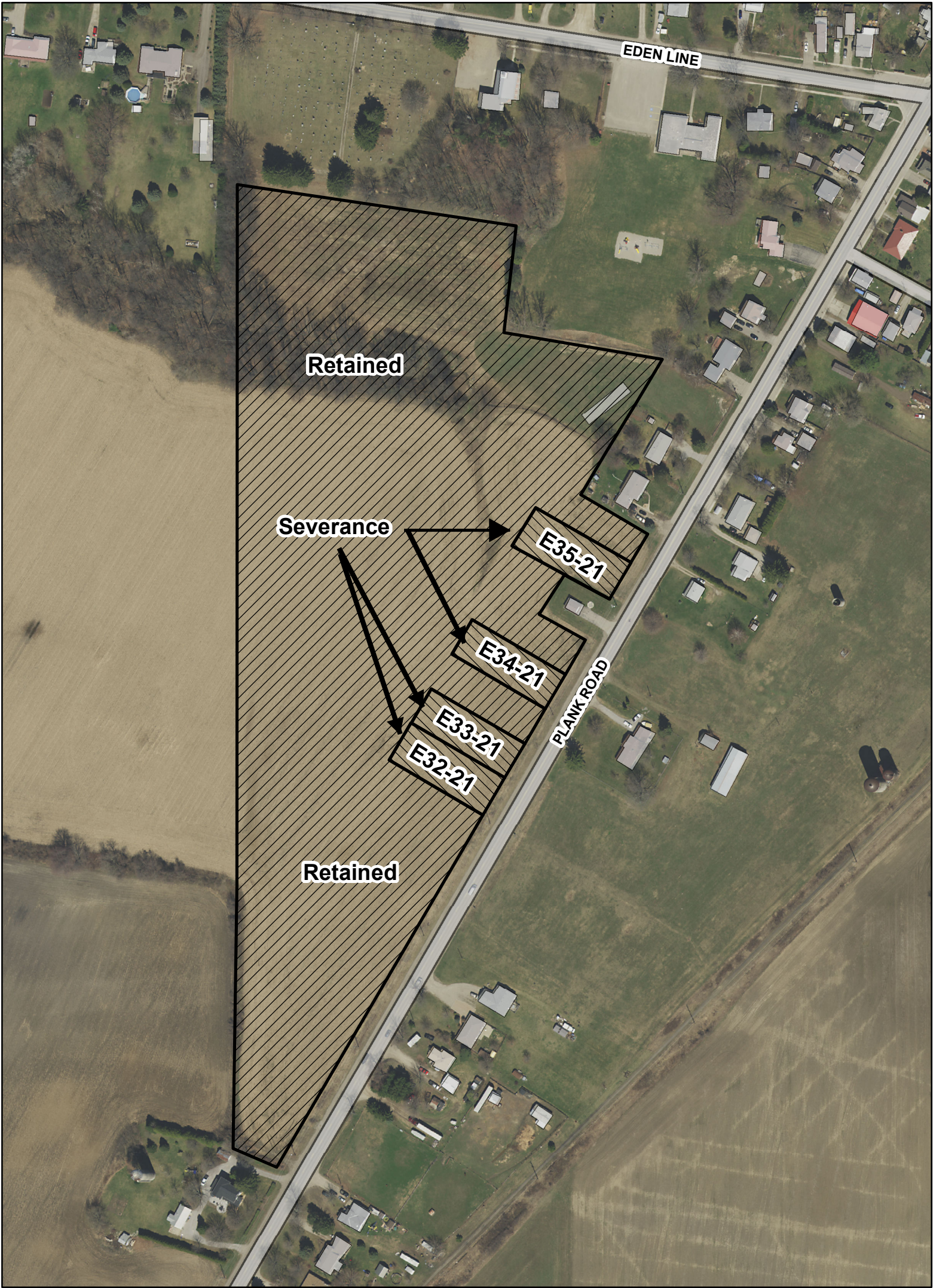
If a person or public body that files an appeal of a decision of the Land Division Committee in respect of the proposed consent does not make written or oral submissions to the Land Division Committee before it gives or refuses to give a provisional consent, the Local Planning Appeal Tribunal may dismiss the appeal.

Dated at the Municipality of Central Elgin this 5<sup>th</sup> day of May, 2021.

Nancy Pasato  
Acting Secretary-Treasurer  
Land Division Committee

**County of Elgin  
Planning Department**  
450 Sunset Drive  
St. Thomas, Ontario  
N5R 5V1 Canada  
Phone: 519-631-1460  
Fax: 519-631-4549

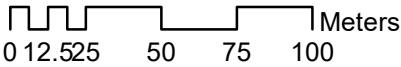




*Location Map*






Subject Site: 11265 Plank road  
File Number: E32-2021, E33-2021, E34-2021, E35-2021  
Owner: Jesse Froese  
Planner: Nancy Pasato  
Created By: AL  
Date: 05/05/2021

The Corporation of the County Elgin  
Prepared By: Planning and Development

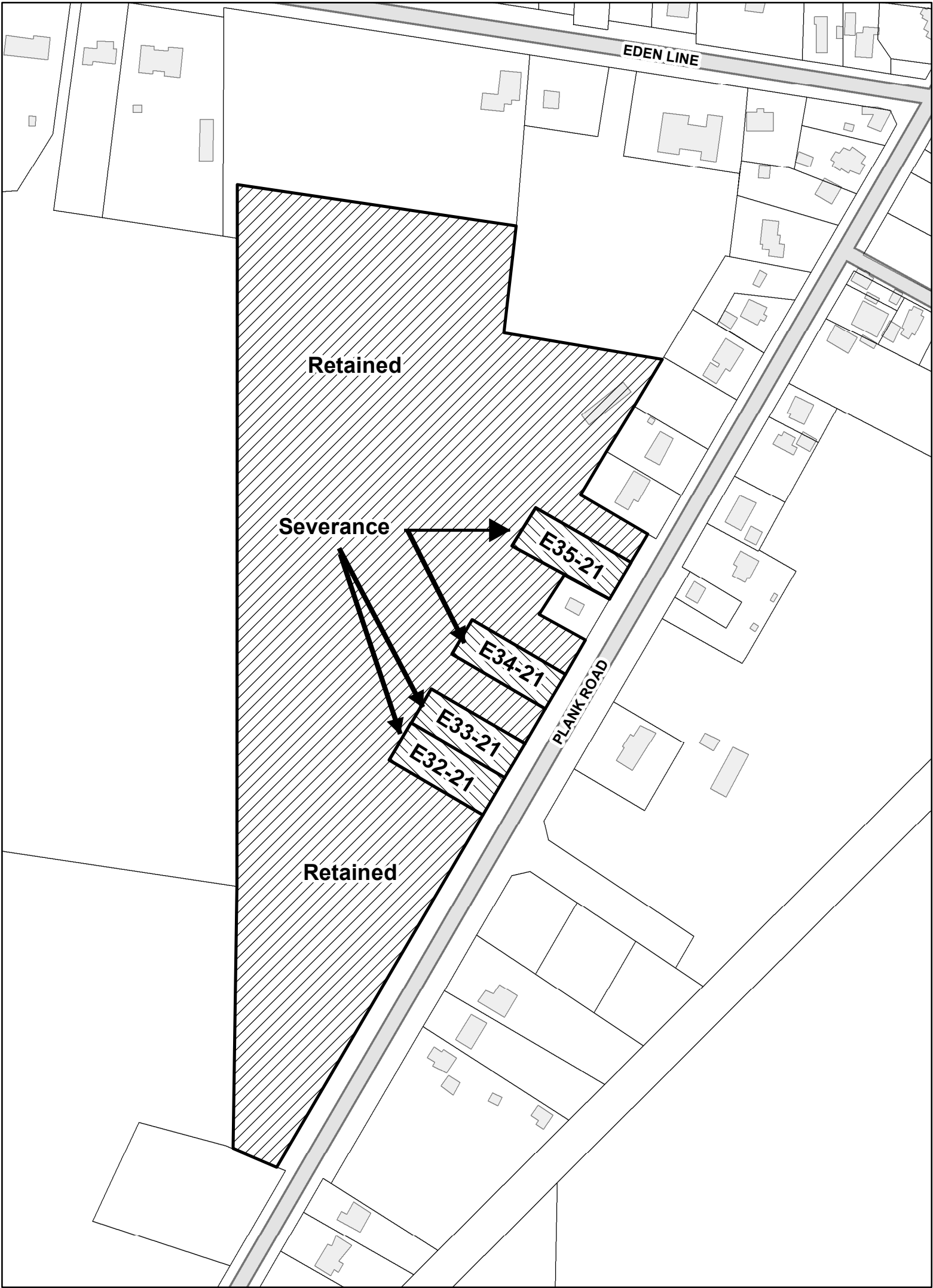


Scale 1:2,500

*Legend*

-  Subject Site
-  Severance
-  Retained
-  Elgin Road Network
-  Buildings

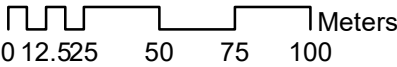




*Location Map*

Subject Site: 11265 Plank road  
File Number: E32-2021, E33-2021, E34-2021, E35-2021  
Owner: Jesse Froese  
Planner: Nancy Pasato  
Created By: AL  
Date: 05/05/2021

The Corporation of the County Elgin  
Prepared By: Planning and Development



Scale 1:2,500

*Legend*

- Subject Site
- Severance
- Retained
- Elgin Road Network
- Buildings

Municipality of  
**BAYHAM**

A: P.O. Box 160, 56169 Heritage Line  
Straffordville, ON N0J 1Y0

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E: [bayham@bayham.on.ca](mailto:bayham@bayham.on.ca)

W: [www.bayham.on.ca](http://www.bayham.on.ca)



May 10, 2021

EMAIL ONLY

Nancy Pasato, Acting Secretary-Treasurer  
Elgin County Land Division Committee  
450 Sunset Drive  
St. Thomas ON N5R 5V1

Dear Ms. Pasato,

**Re: Application for Consent No. E32-35-21 Froese**

Please be advised that the Council of the Municipality of Bayham passed the following resolution adopted at the May 6, 2021 meeting:

**THAT Report DS-27/21 regarding the Consent Applications E32-21 – E35-21 submitted by Jesse Froese be received;**

**AND THAT Council recommend to the Elgin County Land Division Committee that Consent Applications E32-35/21 be granted subject to the following conditions:**

- 1. Installation of individual private wells with water quantity and water quality reports for bacteria and nitrates content meeting the Provincial standards for residential use, as a matter of public health and safety**
- 2. Engineer designed overall lot grading/drainage plan showing direct connection to the existing Municipal Drain**
- 3. Rezoning of the severed lands to remove the Holding (h2) Zone by entering into a Subdivision Agreement with the municipality**
- 4. Digital copy of the registered plan of survey**
- 5. Cash in Lieu of Parkland Dedication fee for each of four created lots**
- 6. Purchase civic number signs for each of four created lots**
- 7. Planning Report fee payable to the Municipality**

Municipal Appraisal Sheet and Staff Report DS-27/21 emailed with this letter. If you have any questions or require additional information, please do not hesitate to contact me.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Margaret Underhill', is written over a light blue horizontal line.

Margaret Underhill  
Acting Clerk/Planning Coordinator

## MUNICIPAL APPRAISAL SHEET – LAND DIVISION COMMITTEE

**Your assistance is requested in answering the questions below. Please complete Parts 1 and 2 and submit to the Secretary Treasurer of the Land Division Committee as soon as possible. Please complete and submit Part 3 once the local Council has provided a recommendation on the application.**

Submission E 32 – 35-21

Applicant Jesse Froese

Location Bayham – 11265 Plank Rd, Concession 8 Part Lot 22

### PART 1 - OFFICIAL PLAN

1. Is there an O.P. in effect? Yes ( X ) No ( )

2. Does the proposal conform with the O.P.? Yes ( X ) No ( )

Land Use Designation: Hamlets

Policies: OP 4.4.2.2

### PART 2 - ZONING

3. Is there a By-Law in effect? Yes ( X ) No ( )

4. Does the proposal conform with all requirements of the By-Law? Yes ( ) No ( X )

Comments: Zoning: Hamlet Residential (HR(h2)) and portion in LPRCA Regulation Limit

Rezoning required to remove the Holding 2 provision by entering into a Subdivision Agreement

5. If not, is the Municipality prepared to amend the By-Law? Yes ( X ) No ( )  
Rezoning application required

PART 3 – COUNCIL RECOMMENDATION – please complete below and send to the Secretary Treasurer of the Land Division Committee and attached any comments, staff reports(s) and Council resolutions/recommendations

6. Does the Municipality foresee demand for new municipal services? Yes ( X ) No ( )

7. If so, is the Municipality prepared to provide those services? Yes ( X ) No ( )

8. Does the Municipality wish the Committee to impose conditions? Yes ( X ) No ( )

9. Does Council recommend the application? Yes ( X ) No ( )

10. Does the municipality have other concerns that should be considered by the Committee?

Staff Report and Resolution attached – Council meeting held May 6, 2021

- f) New hamlet commercial or industrial uses shall be included in a separate zoning category in the Zoning By-law and existing commercial and industrial facilities should also be so recognized in the zoning by-law;
- g) Adequate off-street parking shall be provided;
- h) Adequate buffer planting shall be provided between the hamlet commercial or industrial use and any adjacent residential areas, and such buffer planting may include provisions for grass strips, fences, and appropriate planting of trees and shrubs.

#### 4.4.2 **Residential Uses**

4.4.2.1 The principal land use function of “Hamlets” shall be for clusters of non-farm residential development in the form of single detached dwellings, and other low or medium density types of dwellings. These uses will be controlled and regulated by the Zoning By-law.

4.4.2.2 Consents will generally be discouraged and will only be granted when it is clearly not necessary in the public interest that a plan of subdivision be registered. If a plan of subdivision is not deemed necessary, regard shall be had to other policies in the Official Plan and to the following criteria when considering an application for a consent in the Hamlet areas:

- a) Consents shall be granted only in areas where the minor, or no extension of any municipal service would be required. Any services required in a consent should be satisfactory to the appropriate approval authority;
- b) Consents should be granted only when the land fronts on an existing public road, which is of a reasonable standard of construction;
- c) Consents should have the effect of infilling in existing developed areas and not of extending the Hamlet area unduly;
- d) The size of any parcel of land created by a consent should be appropriate for the use proposed considering the public services available and the soil conditions, and in no case should any parcel be created which does not conform to the provisions of the Zoning By-law;
- e) Direct access from major roads should be restricted and residential lots should, where possible, have access only from internal residential roads;

- f) Consents should not be granted for land adjacent to a road from which access is to be obtained where a traffic hazard would be created because of limited sight lines on curves or grades;
- g) Consents should be granted only when the creation of the lot will not interfere with subsequent access to interior lands;
- h) Consents for mortgage, estate, or other boundary adjustment purposes shall be permitted provided that they adhere to principles of good planning, do not cause land use conflicts and conform to the provisions of the Zoning By-law.

4.4.2.3 It is the intention of this Plan to allow for the eventual development of other residential types such as multiple unit dwellings and single unit mobile home parks within the residential areas of the “Hamlets”. These residential types shall be included in separate zoning categories in the Zoning By-law and will be permitted, providing that municipal water and sewer services are available, and an amendment to the Zoning By-law has been approved.

4.4.2.4 Consideration of the following factors shall be given in the evaluation of an amendment to the Zoning By-law for multi-unit residential developments:

- a) The uses permitted shall include the various types of multiple dwellings such as townhouses, converted dwellings and walk-up apartments;
- b) The multiple unit dwellings shall be sited to enhance the quality of the immediate area with particular attention to the effects of vehicular and pedestrian traffic generation;
- c) Adequate off-street parking shall be provided;
- d) Multiple unit dwellings will only be permitted in areas where municipal water and sewer services are available.

#### 4.4.3 **Commercial Uses**

4.4.3.1 The general principles to be considered in the development and zoning of commercial uses in the “Hamlets” are as follows:

- a) The uses permitted in this land use category are those uses that may serve local residents or the entire Municipality. These uses may include



### 3.3 Holding Zones

In any zone which is accompanied by the holding symbol "h", the uses normally permitted by that zone for lands, buildings or structures may only be allowed when the holding symbol is removed by amendment to this By-law or any subsequent holding by-law. Permitted uses, when the holding symbol (h) is applied, are limited to those that existed on the date when the holding by-law was passed. The purpose of individual holding zones is as follows:

Z611-2012

a) h1 Purpose: To ensure public health and safety, an agreement with the Municipality, or the satisfying of conditions of severance, which address impacts of new development to the applicable proposed water supply system and/or sewage treatment and disposal system; and which may include issues relating to water capacity, water quantity, water quality, and financial costs will be required prior to the removal of the "h1" zone symbol.

b) h2 Purpose: To ensure orderly development, a subdivision agreement with the Municipality, which addresses financial and servicing impacts of new development to the Municipality, will be required prior to the removal of the "h2" zone symbol.

c) h3 Purpose: To ensure the mitigation of impacts to natural heritage features and their ecological functions, an Environmental Impact Study will be required prior to the removal of the "h3" zone symbol.

d) h4 Purpose: To ensure parcels of land do not become landlocked, proof of access to a public right-of-way by the proponent will be required prior to the removal of the "h4" zone symbol.

Z655-2016

e) h5 Purpose: To ensure parcels of land meet Ministry of the Environment, Conservation and Parks requirements, a record of site condition shall be prepared and accepted prior to development of the lands.

Z701-2020

f) h6 Purpose: To ensure that development takes a form compatible with adjacent land uses, Agreement(s) with the Municipality shall be entered into following a public site plan review process specifying the issues allowed for under Section 41 of the Planning Act, as amended from time to time, prior to removal of the "h6" symbol.

### 3.4 Application of Regulations

No person shall within any zone use any land or erect, build, construct, reconstruct, relocate, excavate for, alter, add to, enlarge, extend or use any building or structure, except in conformity with this By-law for the zone in which such land, building, structure or use is located.

### 3.5 Defined Areas

All zones may be subdivided into one or more defined areas within which greater or lesser restrictions shall apply. These defined areas shall be designated by reference to the symbol of the zone within which each such defined area is located together with a number so as to differentiate different defined areas within a zone



## **SECTION 9      HAMLET RESIDENTIAL (HR) ZONE REGULATIONS**

### **9.1    Permitted Uses**

No land shall be used and no buildings or structures shall be erected, used or altered in the Hamlet Residential (HR) Zone except for the following purposes:

One single detached dwelling on one lot;

Bed and Breakfast Lodging or Tourist Home;

Converted dwelling;

Home occupation;

Private garage or carport as an accessory use;

Accessory use.

### **9.2    Minimum Lot Area**

No public water supply or sanitary sewage disposal service: 1,390 m<sup>2</sup>

**Z698-2020**

Public water supply, but no sanitary sewage disposal service: 1,100 m<sup>2</sup>

Public sanitary sewage disposal service, but no public water supply: 900 m<sup>2</sup>

### **9.3    Minimum Lot Frontage**

20.0m

**Z698-2020**

### **9.4    Maximum Lot Coverage**

30%

### **9.5    Maximum Building Height**

10.5m

9.5.1      Maximum Accessory Building Height: 4.5m

### **9.6    Minimum Floor Area**

**Z698-2020**

### **9.7    Maximum Floor Area for an Accessory Building**

75 m<sup>2</sup> or 8% lot coverage, whichever is less

### **9.8    Minimum Front Yard Depth**

7.0 metres

### **9.9    Minimum Side Yard Width**

Single detached dwelling with an attached garage or carport:	1.2 metres plus 0.5 metres for each additional or partial storey above the first storey
Single detached dwelling without an attached garage or carport:	1.2 metres plus 0.5 metres for each additional or partial storey above the first

	storey for one side and 3.0 metres on the other side
Single detached dwelling situated on a corner lot:	4.5 metres on the side abutting a public street and 1.2 metres plus 0.5 metres for each additional or partial storey above the first storey on the other side

9.10 **Minimum Rear Yard Depth**

9.0m

9.11 **Minimum Separation Distance**

From the edge of a railway right-of-way: 30.0 metres

9.12 **Exceptions - Hamlet Residential (HR) Zone**

9.12.1

9.12.1.1 **Defined Area**

HR-1 as shown on Schedule "B" to this By-law.

9.12.1.2 **Permitted Uses**

Commercial Greenhouse in addition to all other uses permitted in the Hamlet Residential (HR) Zone.

9.12.1.3 **Permitted Buildings and Structures**

Buildings and structures for the permitted uses.

9.12.1.4 **Minimum Lot Area**

975 square metres

9.12.1.5 **Minimum Lot Frontage**

- I. For a commercial greenhouse: 16 metres
- II. For a residential dwelling: 14.5 metres

9.12.1.6 **Minimum Side Yard**

2 metres on each side of each building in compliance with subsection 4.25.

9.12.2

9.12.2.1 **Defined Area**

HR-2 as shown on Schedule "E" to this By-law.

9.12.2.2 **Permitted Uses**

Service shop

Inside storage

Pumphouse for a communal well system

In addition to all other uses permitted in the Hamlet Residential (HR) Zone



# REPORT

## DEVELOPMENT SERVICES

**TO:** Mayor & Members of Council

**FROM:** Margaret Underhill, Deputy Clerk/Planning Coordinator

**DATE:** May 6, 2021

**REPORT:** DS-27/21

**FILE NO. C-07 / D09.21 Froese**

**Roll # 3401-000-006-07600**

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**SUBJECT:** Consent Applications E32-21, E33-21, E34-21 and E35-21 Froese, J - Eden

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### BACKGROUND:

Four consent applications E32-21 – E35-21 were received from the Elgin County Land Division Committee submitted by Appointed Agent Andrew Gilvesy on behalf of Jesse Froese proposing to sever four lots with frontages varying from 22 metres to 25.43 metres (72 – 83 ft) and equal depths at 60.0 m (196.8 ft). The owner would retain 6.99 ha (17.3 ac).

The subject land is described as Concession 8 Part of Lot 22, known municipally as 11265 Plank Rd, south of Eden Line on the west side of Plank Rd. The land is within the boundary of the Hamlet of Eden. Lands are designated "Hamlet" on Schedule 'D' Municipality of Bayham Land Use in the Official Plan. Lands are zoned Hamlet Residential Holding (HR-h2) Zone in Zoning By-law No. Z456-2003.

Elgin County Land Division Committee will consider the applications on May 26, 2021.

### DISCUSSION:

The four lots may be considered as infilling in a settlement area with the retained lands subject to a future plan of subdivision. When considering multiple lot development, careful consideration must be given to the overall development, potential servicing, surface water management and drainage.

The lots will require private wells and will connect to the existing sanitary sewer stubs at the lot line. The owner will have to provide acceptable water quality and quantity testing results meeting provincial standards for residential use. An Engineer / Surveyor designed overall lot grading/drainage plan with a direct connection to the existing municipal drain is required showing as much surface water as possible directed to the drain, which may require private tile

branches and catch basins. Fire Services also encourage all homebuilders to install residential sprinklers for health and safety.

The severed lands require rezoning to remove the Holding (h2) Zoning by entering into a Subdivision Agreement with the municipality. In addition, our standard conditions are to require civic numbering signage, survey, cash in lieu payment for the creation of building lots, planning report fee and engineer design lot grading/drainage plan.

Staff and municipal planner recommend Council support of the consent applications for the creation of four lots with one retained parcel fronting on Plank Rd in the Hamlet of Eden.

#### **ATTACHMENTS**

1. Consent Applications E32-21 – E35-21 Froese, J (complete E32-21 application; E33-21 – E35-21 only portions of application attached)
2. IBI Group Memorandum dated April 26, 2021

#### **RECOMMENDATION**

**THAT Report DS-27/21 regarding the Consent Applications E32-21 – E35-21 submitted by Jesse Froese be received;**

**AND THAT Council recommend to the Elgin County Land Division Committee that Consent Applications E32-35/21 be granted subject to the following conditions:**


1. Installation of individual private wells with water quantity and water quality reports for bacteria and nitrates content meeting the Provincial standards for residential use, as a matter of public health and safety
2. Engineer designed overall lot grading/drainage plan showing direct connection to the existing Municipal Drain
3. Rezoning of the severed lands to remove the Holding (h2) Zone by entering into a Subdivision Agreement with the municipality
4. Digital copy of the registered plan of survey
5. Cash in Lieu of Parkland Dedication fee for each of four created lots
6. Purchase civic number signs for each of four created lots
7. Planning Report fee payable to the Municipality

Respectfully Submitted by:



Margaret Underhill  
Deputy Clerk|Planning Coordinator

Reviewed by:

  
Thomas Thayer  
CAO|Clerk



IBI GROUP  
203 – 350 Oxford Street West  
London ON N6H 1T3 Canada  
tel 519 472 7328  
ibigroup.com

# Memorandum

<b>To/Attention</b>	Municipality of Bayham	<b>Date</b>	April 26, 2021
<b>From</b>	Paul Riley, BA, CPT	<b>Project No</b>	3404-814
<b>cc</b>	William Pol, MCIP, RPP		
<b>Subject</b>	Jesse Froese - 11265 Plank Road, Eden - Application for Consent E32/21, E33/21, E34/21, E35/21		

1. We have completed our review of Consent Applications E32/21 – E35/21 submitted by Andrew Gilvesy (CJDL Engineering) on behalf of his client, Jesse Froese, for lands legally known as Part of Lot 22 Concession 8 Bayham, known municipally as 11265 Plank Road, south of Eden Line on the west side of Plank Road. The applicant is requesting Consent to sever four (4) 0.13-0.15 ha (0.32 – 0.37 ac) parcels of land for residential purposes and to retain the remainder as vacant farmland. The lands are designated Hamlets on Schedule 'A1' Municipality of Bayham: Land Use in the Municipality of Bayham Official Plan. The lands are zoned Holding Hamlet Residential Zone (HR(h2)) on Schedule 'D' Eden in Zoning By-law Z456-2003. A portion of the subject lands is located within the Long Point Region Conservation Authority (LPRCA) Regulation Limit overlay of the Zoning By-law.
2. The existing lot is 7.7 ha (19 ac) in area with 183.8 m (603.1 ft) of frontage on Plank Road. These lands are currently vacant and mostly farmed. Surrounding uses are residential to the north, residential and agricultural to the south and east and agricultural to the west.
3. Consent application E32/21 (Part A) will have lot area of 0.14 ha (0.34 ac), lot frontage of 23.19 m (76 ft) and lot depth of 60.0 m (196 ft). Consent applications E33/20 (Part B) and E34/21 (Part C) will each have lot area of 0.13 ha (0.32 ac), lot frontage of 22 m (72 ft) and lot depth of 60.0 m. Consent application E35/21 (Part D) will have lot area of 0.15 ha (0.37 ac), lot frontage of 25.43 m (83 ft) and lot depth of 60.0 m. The retained parcel will have lot area of 6.99 ha (17.3 ac), lot frontage of 290.8 m (954 ft) and irregular lot depth.
4. The subject lands are designated Hamlets by the Municipality of Bayham Official Plan. The principal land use function within this designation is intended to be clusters of non-farm residential development in the form of single detached dwellings and other low/medium density development. Consents will generally be discouraged and only granted when a Plan of Subdivision is not required to protect the public interest. The proposal to create a four lots with frontage on Plank Road and where municipal sanitary sewers are available would not require Plan of Subdivision, therefore, creation of these lots by Consent is appropriate.



Municipality of Bayham – April 26, 2021

5. Section 4.4.2.2 of the Official Plan sets out criteria for Consents within the Hamlet designation, outlined below:

- a) There is an existing municipal sewer line (with stubs) along Plank Road, therefore, no extension of municipal services is required. The owner will connect the new dwellings to the existing municipal sewer line.
- b) The proposed residential lots front on Plank Road, an adequate existing road.
- c) The lands are within the hamlet and have the effect of infilling in an existing developed area.
- d) The size of the proposed lots is appropriate for residential purposes. The proposed lots meet the minimum frontage and lot area regulations of the HR zone, have adequate area to develop private water services (well) and is of adequate configuration and size to accommodate the required setbacks.
- e) Within the hamlet area Plank Road has reduced traffic speeds and the proposed accesses directly to Plank Road are in keeping with the existing pattern of development in Eden.
- f) Based on a desktop review of streetview and aerial images of Plank Road at the subject lands, the road appears flat and straight which suggests that no traffic hazard due to sightlines would be created.
- g) The creation of the lots will not interfere with subsequent access to the retained lands as the conceptual subdivision plan shows a retained access to the south of Part A and to the north of Part D. The retained frontage north of Part D provides for a 20.12 m roadway access which is adequate for future development.
- h) Not applicable.

Based on a review of the above criteria, the proposed lots have adequate frontage on an existing roadway where traffic hazards are not created, there are municipal sewer connections at the roadway, the severed and retained lots meet the minimum lot area requirements of the Zoning By-law and can accommodate single-detached dwellings meeting the setback requirements of the HR zone and access to the interior lands is not interfered with. Development of the severed lands for residential purposes will require the applicant to connect to the existing municipal sewer services and to construct a private water service (well). The proposed Consent(s) are in conformity to the Official Plan.

6. The subject lands are zoned HR(h2) in Zoning By-law Z456-2003, where a single-detached dwelling is a listed permitted use. The minimum lot frontage in the HR zone is 20.0 m (65.6 ft) and the minimum lot area is 0.09 ha (0.22 ac) for lots with municipal sewer services and private water services. The proposed and retained lots frontage and area exceed the minimum requirements of the HR zone. The proposed lots will



Municipality of Bayham – April 26, 2021

be developed in compliance to the regulations of the Zoning By-law for setbacks and required yards. The LPRCA Regulation Limit lands are not impacted by the proposed severances.

7. The purpose of the “h2” holding symbol is to ensure orderly development by requiring the applicant enters into a subdivision agreement with the Municipality, which addresses financial and servicing impacts of new development to the Municipality, prior to the removal of the holding symbol. The proposed Consent(s) comply to the Zoning By-law provided the applicant enter into an agreement with the Municipality and apply to remove the h2 holding symbol.
8. Based on the above review of Consent Applications E32/21 – E35/21, we have no objection to the proposed Consent to create four (4) additional lots in the Hamlet of Eden and recommend the following Conditions for Consent Approval:
  - a) That the owner rezones the severed lands to remove the Holding (h2) Zoning by entering into a Subdivision Agreement with the Municipality.
  - b) That the owner provides a survey of the lands.
  - c) That the owner provides private well test results confirming adequate water quality and quantity for residential use that meets provincial standards for the severed lots.
  - d) That the owner provides preliminary lot grading plans to demonstrate that the proposed residential lots will not have a negative drainage impact on abutting lots.
  - e) That the applicant applies and pay's all fees to the Municipality with respect to Civic Addressing/signage for the severed lots.
  - f) That the applicant provides a Planning Report Fee payable to the Municipality of Bayham.
  - g) That the applicant provides parkland dedication fee of \$2,000.00 to the Municipality of Bayham for each new lot in accordance with By-Law 2020-053.

*Paul Riley*

IBI Group  
Paul Riley

Consulting Planner to the  
Municipality of Bayham

**COUNTY OF ELGIN ROAD SYSTEM**

DATE: May 6, 2021 ELGIN COUNTY ROAD NO.: 19 - 11265 Plank Road

TO: THE COUNTY OF ELGIN LAND DIVISION COMMITTEE

RE:

APPLICATION NO.: E 32-21 – E 35-21

OWNER: Jesse Froese

PROPERTY: LOT NO. Part Lot 22 CONCESSION: 8

REG'D PLAN: MUNICIPALITY: Bayham

The notice of the above application on the above premises has been received and I have the following comments to make:

- 1) Land for road widening is required .....  
*[Section 51 (25) of the Planning Act - That the owner dedicate lands along the frontage of the severed and retained lots/parcels up to 18 m from the centreline of construction of Plank Road County Road (19) to the County of Elgin for the purposes of road widening if the right of way is not already to that width, to the satisfaction of the County Engineer. All costs to be borne by the owner.*

X
- 2) A one-foot reserve is required along the N \_\_\_\_\_,  
S \_\_\_\_\_, E \_\_\_\_\_ and/or W \_\_\_\_\_ property line .....
- 3) Drainage pipes and/or catchbasin(s) are required .....
- 4) A Drainage Report is required under the Drainage Act \* (By Professional Engineer).....
- 5) A curb and gutter is required along the frontage .....
- 6) Direct Connection to a legal outlet for the severed lot is required - If an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited.....

X
- 7) Technical Reports .....
- 8) That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed and retained parcels. All costs associated with this shall be borne by the owner.....

X
- 9) Lot Grading Plan is required for the severed lot.....

X
- 10) The County has no concerns.....
- 11) Not on County Road .....
- 12) Please provide me with a copy of your action on this application .....
- 13) Other...

Note: These lands are subject to County of Elgin By-Law No. 92-57, as amended by By-Law No. 96-45, and any amendments made thereto hereafter, being a by-law to regulate the construction or alteration of any entranceway, private roads or access to a County road.



BRIAN LIMA, P. ENG.  
DIRECTOR OF ENGINEERING SERVICES



**County of Elgin**  
450 Sunset Drive  
St. Thomas, Ontario  
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www.elgin-county.on.ca

APPLICATION FOR CONSENT PURSUANT TO SECTION 53 OF THE PLANNING ACT,  
1990, AS AMENDED.

**To:** Elgin County Land Division Committee  
**From:** Nancy Pasato, Manager of Planning  
**Date:** May 26, 2021  
**Application:** E 34-21

**Owner:**  
**Jesse Froese**  
55903 Maple Grove Line  
Eden, ON N0J 1H0

**Agent:**  
**Andrew Gilvesy**  
261 Broadway P.O. Box 460  
Tillsonburg, ON N4G 4H8

**Location:** 11265 Plank Road, know legally as PART LOT 22 CON 8, Municipality of Bayham.

**PROPOSAL**

The applicants propose to sever a parcel with a frontage of 22 metres (2.17 feet) along Plank Road by a depth of 60 metres (196.85 feet) and an area of 0.13 hectares (0.32 acres) for future residential use. The owners are retaining 7.14 hectares (17.64 acres) proposed to remain in agricultural use.

**County of Elgin Official  
Plan**  
Settlement Area Tier 2

**Local Municipality Official  
Plan**  
Hamlets

**Local Municipality Zoning  
By-law**  
Hamlet Residential (HR(h2))

**REVIEW & ANALYSIS:**

**Public and Agency Comments**

*Municipality of Bayham* - recommends to the Elgin County Land Division Committee that consent applications E32-35-21 be granted subject to the provided conditions.

*County Engineering* – no objections. Conditions 3, 4, 5 & 6 regarding right of way, direct connection, a potential entrance permit and lot grading must be satisfied.

**Planning Act and Provincial Policy Statement**

In considering this application, staff must have regard to matters of Provincial Interest in accordance with Section 2 of the Planning Act (PA), and subdivision criteria in accordance with Section 51(24) of the PA.

The application shall also be consistent with the 2020 Provincial Policy Statement (PPS). Policy 1.1.4 (Rural Areas in Municipalities) outlines that settlement areas are to be the focus of growth and development within municipalities and land use patterns within settlement areas shall be based on densities and a mix of land uses. Additionally, land use patterns within settlement areas shall also be based on a range of uses and opportunities for intensification and redevelopment in accordance with the criteria in policy 1.1.3.3, where this can be accommodated.

The Applicant has indicated the severed portion of the lands will be created for future residential use. The retained parcel of the lands will be used for the existing agricultural purpose. The proposed severed lots are within a settlement area.

#### County of Elgin Official Plan

The settlement areas in the County are divided into three tiers based on their scale, function, and the level of services that exist in each settlement. The subject site is designated Settlement Area Tier 2 in the Elgin County Official Plan (OP). The second tier includes those settlement areas which are generally smaller in population than Tier 1 settlement areas and are on partial services (municipal water/individual onsite sewage services or individual on-site water/municipal sewage services). Limited development (including lot creation) is permitted in these settlement areas given the absence of full municipal services.

The applicant has indicated that the proposed development (i.e. lot creation) will be partially serviced (privately owned and operated individual well and a publicly owned and operated sewage system).

Development on partial services is permitted to allow for infilling and rounding out of existing development provided that:

- a) the proposed development is within the reserve sewage system capacity and reserve water system capacity; and
- b) site conditions are suitable for long-term provision of such services.

Section E.1.2.3.1 General Criteria outlines that consents may be supported subject to the application not creating any new traffic issues or hazards with appropriate access permitting; the proposed retained and severed lots have adequate size and frontage in accordance with the Zoning By-law; all other regulations of the Zoning By-law can be met; appropriate servicing exists or will exist; and the application will not have any adverse impacts on drainage, development of the retained lands, natural heritage or natural hazards. The applicant has addressed the abovementioned criteria and planning staff is satisfied there will be no adverse impacts as a result of this lot creation.

#### Local Municipality Official Plan and Zoning By-law

The subject lands are designated as Hamlets in the Municipality of Bayham Official Plan. The principle land use function within this designation is clusters of non-farm residential development in the form of single detached dwellings and other low/medium density development. Consents are generally discouraged and only supported by the municipality when a Plan of Subdivision is not required to protect the public interest. The proposal to create four lots where municipal sanitary sewers are available, would not require a Plan of Subdivision, and therefore the creation of these lots by consent is appropriate.

The subject lands are designated Hamlet Residential (HR(h2)), with a holding provision indicated by the "h2". The purpose of the "h2" holding symbol is to ensure orderly development by requiring the applicant to enter into a subdivision agreement with the

municipality. Therefore, the severed lands will require a rezoning to remove the Holding (h2) Zoning by entering into a Subdivision Agreement with the municipality.

**RECOMMENDATION:**

This application for consent is consistent with both the 2020 Provincial Policy Statement and complies with the County of Elgin Official Plan regarding lot creation in agricultural areas. As such, planning staff is of the opinion that the application is acceptable from a planning perspective and recommends approval subject to the following conditions:

1. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
2. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed
3. That the owners dedicate lands along the frontage of the severed and retained lots/parcels up to 18m from the centerline of construction of Plank Road County Road 19 to the County of Elgin for the purposes of road widening if the right of way is not already to that width, to the satisfaction of the County Engineer. All costs to be borne by the owner.
4. Direct connection to a legal outlet for the severed lot is required. If an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited;
5. That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed parcel. All costs associated with this shall be borne by the owner; and
6. A lot grading plan is required for the severed lot.
7. The applicant shall provide to the Land Division Committee a signed acknowledgement and undertaking confirming:
  - a. That the applicant has been advised that the Ontario Building Code Act requires confirmation of servicing including an individual on-site potable water supply and/or an individual on-site sewage system prior to the issuance of a building permit;
  - b. That the applicant has made the necessary inquiries of the Municipality to determine the work necessary in order to confirm that the site conditions are suitable for the long-term provision of such services with no negative impact; and
  - c. That the applicant undertakes to advise any future purchaser of the above acknowledgement and the results of such inquiries.
8. That the Municipality confirms that there is sufficient reserve sewage treatment capacity within the municipal sewage treatment system.

Additionally, it is recommended that the following conditions from the Municipality of Bayham be included as conditions for consent:

1. Installation of individual private wells with water quantity and water quality reports for bacteria and nitrates content meeting the Provincial standards for residential use, as a matter of public health and safety.
2. Engineer designed overall lot grading/drainage plan showing direct connection to the existing Municipal Drain.



**County of Elgin**  
450 Sunset Drive  
St. Thomas, Ontario  
N5R 5V1 Canada  
Phone: 519-631-1460  
Fax: 519-633-7661  
[www.elgin-county.on.ca](http://www.elgin-county.on.ca)

3. Rezoning of the severed lands to remove the Holding (h2) Zone by entering into a Subdivision Agreement with the municipality.
4. Digital copy of the registered plan of survey.
5. Cash in Lieu of Parkland Dedication fee for each of the four created lots.
6. Purchase civic number signs for each of the four created lots.
7. Planning Report fee payable to the Municipality.





**CORPORATION OF THE COUNTY OF ELGIN**

**NOTICE OF APPLICATION FOR CONSENT**

**APPLICATION NO. E 35-21**

**PART LOT 22, CONCESSION 8  
MUNICIPALITY OF BAYHAM  
MUNICIPAL ADDRESS: 11265 PLANK ROAD**

**TAKE NOTICE that** an application has been made by **Jesse Froese**, 55903 Maple Grove Line, Eden, Ontario, N0J 1H0 for a consent pursuant to Section 53 of the Planning Act, 1990, as amended, to sever lands municipally known as 11265 Plank Road, Municipality of Bayham.

The applicants propose to sever a parcel with a frontage of 25.43 metres (83.43 feet) along Plank Road by a depth of 60 metres (196.85 feet) and an area of 0.15 hectares (0.37 acres) for future residential use. The owners are retaining 6.99 hectares (17.27 acres) proposed to remain in agricultural use.

The location of the property is shown on the Key Map attached.

**ADDITIONAL INFORMATION** regarding the application is available for inspection daily, Monday to Friday, between 8:30 A.M. and 4:30 P.M., at the County Municipal Offices, 450 Sunset Drive, St. Thomas or at a Public Hearing to be held on:

**WEDNESDAY May 26, 2021 AT 10:25 AM.  
BY VIDEO/TELEPHONE CONFERENCE OR IN PERSON AT  
Council Chambers, County Municipal Offices, 450 Sunset Drive, St. Thomas**

Any person or public body may attend the Public Hearing and/or make written or verbal representation either in support of, or in opposition to the proposed consent.

**PLEASE NOTE: YOUR PARTICIPATION BY VIDEO/TELECONFERENCE IS PREFERRED.**

**DUE TO PROVINCIAL ORDERS, ATTENDANCE IN PERSON MAY BE RESTRICTED. PLEASE CONTACT [npasato@elgin.ca](mailto:npasato@elgin.ca) AT LEAST 24 HOURS BEFORE THE MEETING TO ARRANGE FOR VIDEO/TELECONFERENCE OR TELEPHONE INFORMATION, OR TO CONFIRM IF IN PERSON ATTENDANCE IS POSSIBLE.**

If you wish to be notified of the decision of the Land Division Committee in respect of the proposed consent, you must submit a written request to the Land Division Committee. This will also entitle you to be advised of any appeal to the Local Planning Appeal Tribunal.

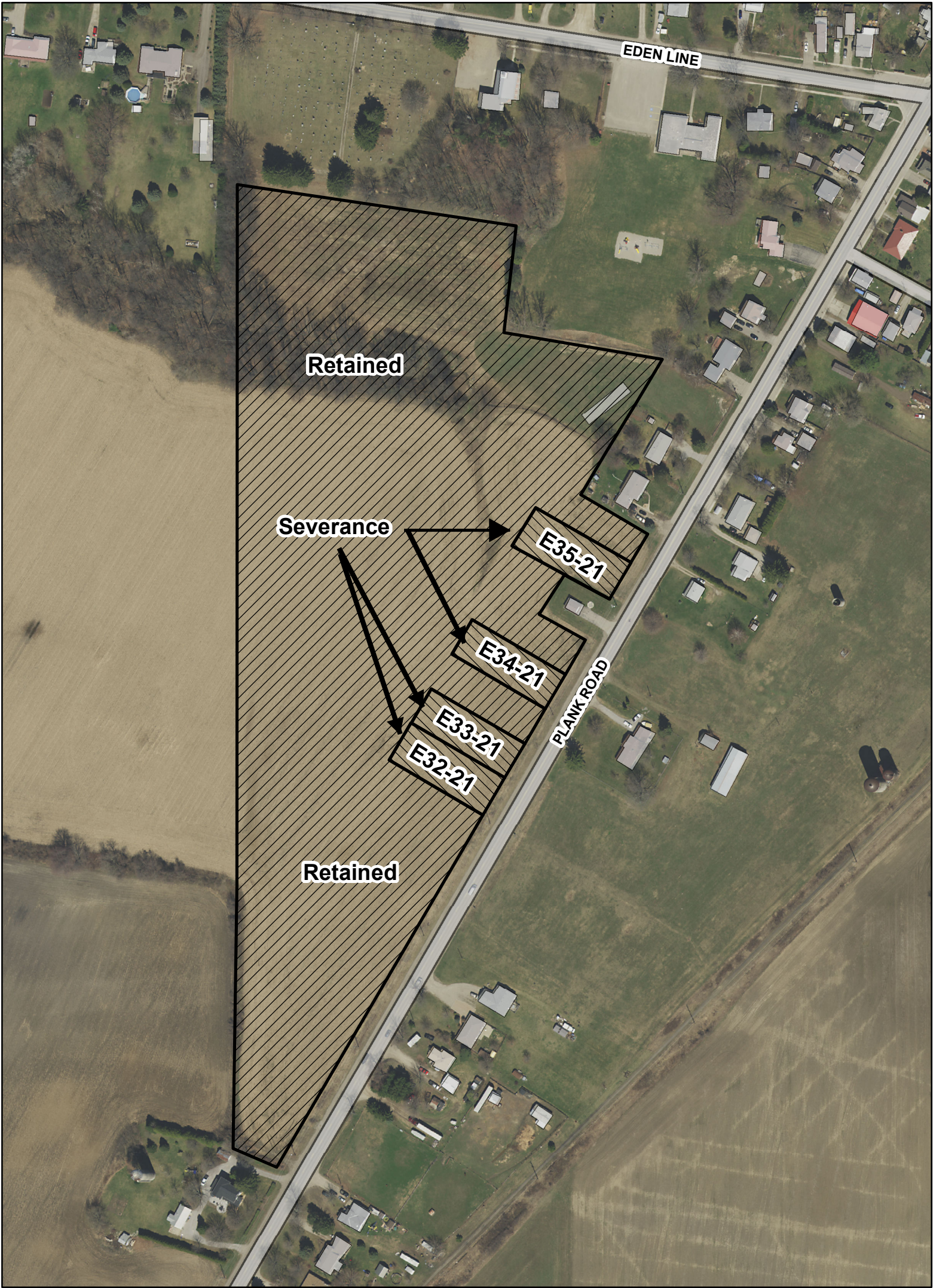
If a person or public body that files an appeal of a decision of the Land Division Committee in respect of the proposed consent does not make written or oral submissions to the Land Division Committee before it gives or refuses to give a provisional consent, the Local Planning Appeal Tribunal may dismiss the appeal.

Dated at the Municipality of Central Elgin this 5<sup>th</sup> day of May, 2021.

Nancy Pasato  
Acting Secretary-Treasurer  
Land Division Committee

**County of Elgin  
Planning Department**  
450 Sunset Drive  
St. Thomas, Ontario  
N5R 5V1 Canada  
Phone: 519-631-1460  
Fax: 519-631-4549

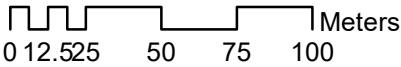




*Location Map*






Subject Site: 11265 Plank road  
File Number: E32-2021, E33-2021, E34-2021, E35-2021  
Owner: Jesse Froese  
Planner: Nancy Pasato  
Created By: AL  
Date: 05/05/2021

The Corporation of the County Elgin  
Prepared By: Planning and Development

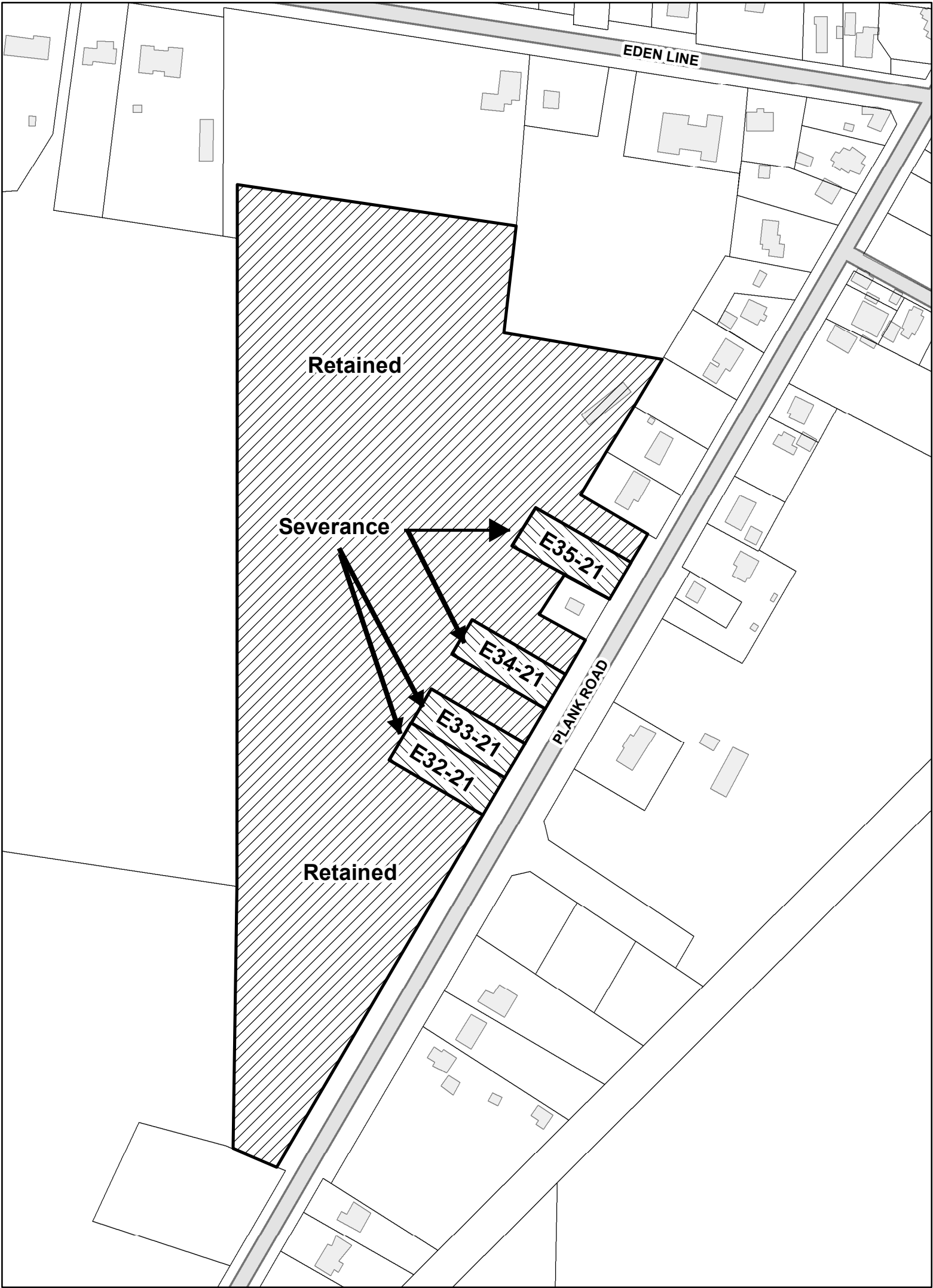


Scale 1:2,500

*Legend*

-  Subject Site
-  Severance
-  Retained
-  Elgin Road Network
-  Buildings

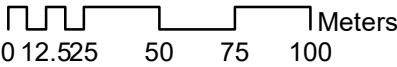




# Location Map

Subject Site: 11265 Plank road  
File Number: E32-2021, E33-2021, E34-2021, E35-2021  
Owner: Jesse Froese  
Planner: Nancy Pasato  
Created By: AL  
Date: 05/05/2021






The Corporation of the County Elgin  
Prepared By: Planning and Development



Scale 1:2,500



# Legend

-  Subject Site
-  Severance
-  Retained
-  Elgin Road Network
-  Buildings

Municipality of  
**BAYHAM**

A: P.O. Box 160, 56169 Heritage Line  
Straffordville, ON N0J 1Y0

T: 519-866-5521

F: 519-866-3884

E: [bayham@bayham.on.ca](mailto:bayham@bayham.on.ca)

W: [www.bayham.on.ca](http://www.bayham.on.ca)



May 10, 2021

EMAIL ONLY

Nancy Pasato, Acting Secretary-Treasurer  
Elgin County Land Division Committee  
450 Sunset Drive  
St. Thomas ON N5R 5V1

Dear Ms. Pasato,

**Re: Application for Consent No. E32-35-21 Froese**

Please be advised that the Council of the Municipality of Bayham passed the following resolution adopted at the May 6, 2021 meeting:

**THAT Report DS-27/21 regarding the Consent Applications E32-21 – E35-21 submitted by Jesse Froese be received;**

**AND THAT Council recommend to the Elgin County Land Division Committee that Consent Applications E32-35/21 be granted subject to the following conditions:**

- 1. Installation of individual private wells with water quantity and water quality reports for bacteria and nitrates content meeting the Provincial standards for residential use, as a matter of public health and safety**
- 2. Engineer designed overall lot grading/drainage plan showing direct connection to the existing Municipal Drain**
- 3. Rezoning of the severed lands to remove the Holding (h2) Zone by entering into a Subdivision Agreement with the municipality**
- 4. Digital copy of the registered plan of survey**
- 5. Cash in Lieu of Parkland Dedication fee for each of four created lots**
- 6. Purchase civic number signs for each of four created lots**
- 7. Planning Report fee payable to the Municipality**

Municipal Appraisal Sheet and Staff Report DS-27/21 emailed with this letter. If you have any questions or require additional information, please do not hesitate to contact me.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Margaret Underhill', is written over a light blue horizontal line.

Margaret Underhill  
Acting Clerk/Planning Coordinator

## MUNICIPAL APPRAISAL SHEET – LAND DIVISION COMMITTEE

**Your assistance is requested in answering the questions below. Please complete Parts 1 and 2 and submit to the Secretary Treasurer of the Land Division Committee as soon as possible. Please complete and submit Part 3 once the local Council has provided a recommendation on the application.**

Submission E 32 – 35-21

Applicant Jesse Froese

Location Bayham – 11265 Plank Rd, Concession 8 Part Lot 22

### PART 1 - OFFICIAL PLAN

1. Is there an O.P. in effect? Yes ( X ) No ( )

2. Does the proposal conform with the O.P.? Yes ( X ) No ( )

Land Use Designation: Hamlets

Policies: OP 4.4.2.2

### PART 2 - ZONING

3. Is there a By-Law in effect? Yes ( X ) No ( )

4. Does the proposal conform with all requirements of the By-Law? Yes ( ) No ( X )

Comments: Zoning: Hamlet Residential (HR(h2)) and portion in LPRCA Regulation Limit

Rezoning required to remove the Holding 2 provision by entering into a Subdivision Agreement

5. If not, is the Municipality prepared to amend the By-Law? Yes ( X ) No ( )  
Rezoning application required

PART 3 – COUNCIL RECOMMENDATION – please complete below and send to the Secretary Treasurer of the Land Division Committee and attached any comments, staff reports(s) and Council resolutions/recommendations

6. Does the Municipality foresee demand for new municipal services? Yes ( X ) No ( )

7. If so, is the Municipality prepared to provide those services? Yes ( X ) No ( )

8. Does the Municipality wish the Committee to impose conditions? Yes ( X ) No ( )

9. Does Council recommend the application? Yes ( X ) No ( )

10. Does the municipality have other concerns that should be considered by the Committee?

Staff Report and Resolution attached – Council meeting held May 6, 2021

- f) New hamlet commercial or industrial uses shall be included in a separate zoning category in the Zoning By-law and existing commercial and industrial facilities should also be so recognized in the zoning by-law;
- g) Adequate off-street parking shall be provided;
- h) Adequate buffer planting shall be provided between the hamlet commercial or industrial use and any adjacent residential areas, and such buffer planting may include provisions for grass strips, fences, and appropriate planting of trees and shrubs.

#### 4.4.2 **Residential Uses**

4.4.2.1 The principal land use function of “Hamlets” shall be for clusters of non-farm residential development in the form of single detached dwellings, and other low or medium density types of dwellings. These uses will be controlled and regulated by the Zoning By-law.

4.4.2.2 Consents will generally be discouraged and will only be granted when it is clearly not necessary in the public interest that a plan of subdivision be registered. If a plan of subdivision is not deemed necessary, regard shall be had to other policies in the Official Plan and to the following criteria when considering an application for a consent in the Hamlet areas:

- a) Consents shall be granted only in areas where the minor, or no extension of any municipal service would be required. Any services required in a consent should be satisfactory to the appropriate approval authority;
- b) Consents should be granted only when the land fronts on an existing public road, which is of a reasonable standard of construction;
- c) Consents should have the effect of infilling in existing developed areas and not of extending the Hamlet area unduly;
- d) The size of any parcel of land created by a consent should be appropriate for the use proposed considering the public services available and the soil conditions, and in no case should any parcel be created which does not conform to the provisions of the Zoning By-law;
- e) Direct access from major roads should be restricted and residential lots should, where possible, have access only from internal residential roads;



- f) Consents should not be granted for land adjacent to a road from which access is to be obtained where a traffic hazard would be created because of limited sight lines on curves or grades;
- g) Consents should be granted only when the creation of the lot will not interfere with subsequent access to interior lands;
- h) Consents for mortgage, estate, or other boundary adjustment purposes shall be permitted provided that they adhere to principles of good planning, do not cause land use conflicts and conform to the provisions of the Zoning By-law.

4.4.2.3 It is the intention of this Plan to allow for the eventual development of other residential types such as multiple unit dwellings and single unit mobile home parks within the residential areas of the “Hamlets”. These residential types shall be included in separate zoning categories in the Zoning By-law and will be permitted, providing that municipal water and sewer services are available, and an amendment to the Zoning By-law has been approved.

4.4.2.4 Consideration of the following factors shall be given in the evaluation of an amendment to the Zoning By-law for multi-unit residential developments:

- a) The uses permitted shall include the various types of multiple dwellings such as townhouses, converted dwellings and walk-up apartments;
- b) The multiple unit dwellings shall be sited to enhance the quality of the immediate area with particular attention to the effects of vehicular and pedestrian traffic generation;
- c) Adequate off-street parking shall be provided;
- d) Multiple unit dwellings will only be permitted in areas where municipal water and sewer services are available.

#### 4.4.3 **Commercial Uses**

4.4.3.1 The general principles to be considered in the development and zoning of commercial uses in the “Hamlets” are as follows:

- a) The uses permitted in this land use category are those uses that may serve local residents or the entire Municipality. These uses may include

### 3.3 Holding Zones

In any zone which is accompanied by the holding symbol "h", the uses normally permitted by that zone for lands, buildings or structures may only be allowed when the holding symbol is removed by amendment to this By-law or any subsequent holding by-law. Permitted uses, when the holding symbol (h) is applied, are limited to those that existed on the date when the holding by-law was passed. The purpose of individual holding zones is as follows:

Z611-2012

a) h1 Purpose: To ensure public health and safety, an agreement with the Municipality, or the satisfying of conditions of severance, which address impacts of new development to the applicable proposed water supply system and/or sewage treatment and disposal system; and which may include issues relating to water capacity, water quantity, water quality, and financial costs will be required prior to the removal of the "h1" zone symbol.

b) h2 Purpose: To ensure orderly development, a subdivision agreement with the Municipality, which addresses financial and servicing impacts of new development to the Municipality, will be required prior to the removal of the "h2" zone symbol.

c) h3 Purpose: To ensure the mitigation of impacts to natural heritage features and their ecological functions, an Environmental Impact Study will be required prior to the removal of the "h3" zone symbol.

d) h4 Purpose: To ensure parcels of land do not become landlocked, proof of access to a public right-of-way by the proponent will be required prior to the removal of the "h4" zone symbol.

Z655-2016

e) h5 Purpose: To ensure parcels of land meet Ministry of the Environment, Conservation and Parks requirements, a record of site condition shall be prepared and accepted prior to development of the lands.

Z701-2020

f) h6 Purpose: To ensure that development takes a form compatible with adjacent land uses, Agreement(s) with the Municipality shall be entered into following a public site plan review process specifying the issues allowed for under Section 41 of the Planning Act, as amended from time to time, prior to removal of the "h6" symbol.

### 3.4 Application of Regulations

No person shall within any zone use any land or erect, build, construct, reconstruct, relocate, excavate for, alter, add to, enlarge, extend or use any building or structure, except in conformity with this By-law for the zone in which such land, building, structure or use is located.

### 3.5 Defined Areas

All zones may be subdivided into one or more defined areas within which greater or lesser restrictions shall apply. These defined areas shall be designated by reference to the symbol of the zone within which each such defined area is located together with a number so as to differentiate different defined areas within a zone

## **SECTION 9      HAMLET RESIDENTIAL (HR) ZONE REGULATIONS**

### **9.1    Permitted Uses**

No land shall be used and no buildings or structures shall be erected, used or altered in the Hamlet Residential (HR) Zone except for the following purposes:

One single detached dwelling on one lot;

Bed and Breakfast Lodging or Tourist Home;

Converted dwelling;

Home occupation;

Private garage or carport as an accessory use;

Accessory use.

### **9.2    Minimum Lot Area**

No public water supply or sanitary sewage disposal service: 1,390 m<sup>2</sup>

**Z698-2020**

Public water supply, but no sanitary sewage disposal service: 1,100 m<sup>2</sup>

Public sanitary sewage disposal service, but no public water supply: 900 m<sup>2</sup>

### **9.3    Minimum Lot Frontage**

20.0m

**Z698-2020**

### **9.4    Maximum Lot Coverage**

30%

### **9.5    Maximum Building Height**

10.5m

9.5.1      Maximum Accessory Building Height: 4.5m

### **9.6    Minimum Floor Area**

**Z698-2020**

### **9.7    Maximum Floor Area for an Accessory Building**

75 m<sup>2</sup> or 8% lot coverage, whichever is less

### **9.8    Minimum Front Yard Depth**

7.0 metres

### **9.9    Minimum Side Yard Width**

Single detached dwelling with an attached garage or carport:	1.2 metres plus 0.5 metres for each additional or partial storey above the first storey
Single detached dwelling without an attached garage or carport:	1.2 metres plus 0.5 metres for each additional or partial storey above the first

	storey for one side and 3.0 metres on the other side
Single detached dwelling situated on a corner lot:	4.5 metres on the side abutting a public street and 1.2 metres plus 0.5 metres for each additional or partial storey above the first storey on the other side

9.10 **Minimum Rear Yard Depth**

9.0m

9.11 **Minimum Separation Distance**

From the edge of a railway right-of-way: 30.0 metres

9.12 **Exceptions - Hamlet Residential (HR) Zone**

9.12.1

9.12.1.1 **Defined Area**

HR-1 as shown on Schedule "B" to this By-law.

9.12.1.2 **Permitted Uses**

Commercial Greenhouse in addition to all other uses permitted in the Hamlet Residential (HR) Zone.

9.12.1.3 **Permitted Buildings and Structures**

Buildings and structures for the permitted uses.

9.12.1.4 **Minimum Lot Area**

975 square metres

9.12.1.5 **Minimum Lot Frontage**

- I. For a commercial greenhouse: 16 metres
- II. For a residential dwelling: 14.5 metres

9.12.1.6 **Minimum Side Yard**

2 metres on each side of each building in compliance with subsection 4.25.

9.12.2

9.12.2.1 **Defined Area**

HR-2 as shown on Schedule "E" to this By-law.

9.12.2.2 **Permitted Uses**

Service shop

Inside storage

Pumphouse for a communal well system

In addition to all other uses permitted in the Hamlet Residential (HR) Zone



# REPORT

## DEVELOPMENT SERVICES

**TO:** Mayor & Members of Council

**FROM:** Margaret Underhill, Deputy Clerk/Planning Coordinator

**DATE:** May 6, 2021

**REPORT:** DS-27/21

**FILE NO. C-07 / D09.21 Froese**

**Roll # 3401-000-006-07600**

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**SUBJECT:** Consent Applications E32-21, E33-21, E34-21 and E35-21 Froese, J - Eden

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### BACKGROUND:

Four consent applications E32-21 – E35-21 were received from the Elgin County Land Division Committee submitted by Appointed Agent Andrew Gilvesy on behalf of Jesse Froese proposing to sever four lots with frontages varying from 22 metres to 25.43 metres (72 – 83 ft) and equal depths at 60.0 m (196.8 ft). The owner would retain 6.99 ha (17.3 ac).

The subject land is described as Concession 8 Part of Lot 22, known municipally as 11265 Plank Rd, south of Eden Line on the west side of Plank Rd. The land is within the boundary of the Hamlet of Eden. Lands are designated "Hamlet" on Schedule 'D' Municipality of Bayham Land Use in the Official Plan. Lands are zoned Hamlet Residential Holding (HR-h2) Zone in Zoning By-law No. Z456-2003.

Elgin County Land Division Committee will consider the applications on May 26, 2021.

### DISCUSSION:

The four lots may be considered as infilling in a settlement area with the retained lands subject to a future plan of subdivision. When considering multiple lot development, careful consideration must be given to the overall development, potential servicing, surface water management and drainage.

The lots will require private wells and will connect to the existing sanitary sewer stubs at the lot line. The owner will have to provide acceptable water quality and quantity testing results meeting provincial standards for residential use. An Engineer / Surveyor designed overall lot grading/drainage plan with a direct connection to the existing municipal drain is required showing as much surface water as possible directed to the drain, which may require private tile



branches and catch basins. Fire Services also encourage all homebuilders to install residential sprinklers for health and safety.

The severed lands require rezoning to remove the Holding (h2) Zoning by entering into a Subdivision Agreement with the municipality. In addition, our standard conditions are to require civic numbering signage, survey, cash in lieu payment for the creation of building lots, planning report fee and engineer design lot grading/drainage plan.

Staff and municipal planner recommend Council support of the consent applications for the creation of four lots with one retained parcel fronting on Plank Rd in the Hamlet of Eden.

#### **ATTACHMENTS**

1. Consent Applications E32-21 – E35-21 Froese, J (complete E32-21 application; E33-21 – E35-21 only portions of application attached)
2. IBI Group Memorandum dated April 26, 2021

#### **RECOMMENDATION**

**THAT Report DS-27/21 regarding the Consent Applications E32-21 – E35-21 submitted by Jesse Froese be received;**

**AND THAT Council recommend to the Elgin County Land Division Committee that Consent Applications E32-35/21 be granted subject to the following conditions:**


1. Installation of individual private wells with water quantity and water quality reports for bacteria and nitrates content meeting the Provincial standards for residential use, as a matter of public health and safety
2. Engineer designed overall lot grading/drainage plan showing direct connection to the existing Municipal Drain
3. Rezoning of the severed lands to remove the Holding (h2) Zone by entering into a Subdivision Agreement with the municipality
4. Digital copy of the registered plan of survey
5. Cash in Lieu of Parkland Dedication fee for each of four created lots
6. Purchase civic number signs for each of four created lots
7. Planning Report fee payable to the Municipality

Respectfully Submitted by:



Margaret Underhill  
Deputy Clerk|Planning Coordinator

Reviewed by:

  
Thomas Thayer  
CAO|Clerk





IBI GROUP  
203 – 350 Oxford Street West  
London ON N6H 1T3 Canada  
tel 519 472 7328  
ibigroup.com

# Memorandum

<b>To/Attention</b>	Municipality of Bayham	<b>Date</b>	April 26, 2021
<b>From</b>	Paul Riley, BA, CPT	<b>Project No</b>	3404-814
<b>cc</b>	William Pol, MCIP, RPP		
<b>Subject</b>	Jesse Froese - 11265 Plank Road, Eden - Application for Consent E32/21, E33/21, E34/21, E35/21		

1. We have completed our review of Consent Applications E32/21 – E35/21 submitted by Andrew Gilvesy (CJDL Engineering) on behalf of his client, Jesse Froese, for lands legally known as Part of Lot 22 Concession 8 Bayham, known municipally as 11265 Plank Road, south of Eden Line on the west side of Plank Road. The applicant is requesting Consent to sever four (4) 0.13-0.15 ha (0.32 – 0.37 ac) parcels of land for residential purposes and to retain the remainder as vacant farmland. The lands are designated Hamlets on Schedule 'A1' Municipality of Bayham: Land Use in the Municipality of Bayham Official Plan. The lands are zoned Holding Hamlet Residential Zone (HR(h2)) on Schedule 'D' Eden in Zoning By-law Z456-2003. A portion of the subject lands is located within the Long Point Region Conservation Authority (LPRCA) Regulation Limit overlay of the Zoning By-law.
2. The existing lot is 7.7 ha (19 ac) in area with 183.8 m (603.1 ft) of frontage on Plank Road. These lands are currently vacant and mostly farmed. Surrounding uses are residential to the north, residential and agricultural to the south and east and agricultural to the west.
3. Consent application E32/21 (Part A) will have lot area of 0.14 ha (0.34 ac), lot frontage of 23.19 m (76 ft) and lot depth of 60.0 m (196 ft). Consent applications E33/20 (Part B) and E34/21 (Part C) will each have lot area of 0.13 ha (0.32 ac), lot frontage of 22 m (72 ft) and lot depth of 60.0 m. Consent application E35/21 (Part D) will have lot area of 0.15 ha (0.37 ac), lot frontage of 25.43 m (83 ft) and lot depth of 60.0 m. The retained parcel will have lot area of 6.99 ha (17.3 ac), lot frontage of 290.8 m (954 ft) and irregular lot depth.
4. The subject lands are designated Hamlets by the Municipality of Bayham Official Plan. The principal land use function within this designation is intended to be clusters of non-farm residential development in the form of single detached dwellings and other low/medium density development. Consents will generally be discouraged and only granted when a Plan of Subdivision is not required to protect the public interest. The proposal to create a four lots with frontage on Plank Road and where municipal sanitary sewers are available would not require Plan of Subdivision, therefore, creation of these lots by Consent is appropriate.

Municipality of Bayham – April 26, 2021

5. Section 4.4.2.2 of the Official Plan sets out criteria for Consents within the Hamlet designation, outlined below:

- a) There is an existing municipal sewer line (with stubs) along Plank Road, therefore, no extension of municipal services is required. The owner will connect the new dwellings to the existing municipal sewer line.
- b) The proposed residential lots front on Plank Road, an adequate existing road.
- c) The lands are within the hamlet and have the effect of infilling in an existing developed area.
- d) The size of the proposed lots is appropriate for residential purposes. The proposed lots meet the minimum frontage and lot area regulations of the HR zone, have adequate area to develop private water services (well) and is of adequate configuration and size to accommodate the required setbacks.
- e) Within the hamlet area Plank Road has reduced traffic speeds and the proposed accesses directly to Plank Road are in keeping with the existing pattern of development in Eden.
- f) Based on a desktop review of streetview and aerial images of Plank Road at the subject lands, the road appears flat and straight which suggests that no traffic hazard due to sightlines would be created.
- g) The creation of the lots will not interfere with subsequent access to the retained lands as the conceptual subdivision plan shows a retained access to the south of Part A and to the north of Part D. The retained frontage north of Part D provides for a 20.12 m roadway access which is adequate for future development.
- h) Not applicable.

Based on a review of the above criteria, the proposed lots have adequate frontage on an existing roadway where traffic hazards are not created, there are municipal sewer connections at the roadway, the severed and retained lots meet the minimum lot area requirements of the Zoning By-law and can accommodate single-detached dwellings meeting the setback requirements of the HR zone and access to the interior lands is not interfered with. Development of the severed lands for residential purposes will require the applicant to connect to the existing municipal sewer services and to construct a private water service (well). The proposed Consent(s) are in conformity to the Official Plan.

6. The subject lands are zoned HR(h2) in Zoning By-law Z456-2003, where a single-detached dwelling is a listed permitted use. The minimum lot frontage in the HR zone is 20.0 m (65.6 ft) and the minimum lot area is 0.09 ha (0.22 ac) for lots with municipal sewer services and private water services. The proposed and retained lots frontage and area exceed the minimum requirements of the HR zone. The proposed lots will

Municipality of Bayham – April 26, 2021

be developed in compliance to the regulations of the Zoning By-law for setbacks and required yards. The LPRCA Regulation Limit lands are not impacted by the proposed severances.

7. The purpose of the “h2” holding symbol is to ensure orderly development by requiring the applicant enters into a subdivision agreement with the Municipality, which addresses financial and servicing impacts of new development to the Municipality, prior to the removal of the holding symbol. The proposed Consent(s) comply to the Zoning By-law provided the applicant enter into an agreement with the Municipality and apply to remove the h2 holding symbol.
8. Based on the above review of Consent Applications E32/21 – E35/21, we have no objection to the proposed Consent to create four (4) additional lots in the Hamlet of Eden and recommend the following Conditions for Consent Approval:
  - a) That the owner rezones the severed lands to remove the Holding (h2) Zoning by entering into a Subdivision Agreement with the Municipality.
  - b) That the owner provides a survey of the lands.
  - c) That the owner provides private well test results confirming adequate water quality and quantity for residential use that meets provincial standards for the severed lots.
  - d) That the owner provides preliminary lot grading plans to demonstrate that the proposed residential lots will not have a negative drainage impact on abutting lots.
  - e) That the applicant applies and pay's all fees to the Municipality with respect to Civic Addressing/signage for the severed lots.
  - f) That the applicant provides a Planning Report Fee payable to the Municipality of Bayham.
  - g) That the applicant provides parkland dedication fee of \$2,000.00 to the Municipality of Bayham for each new lot in accordance with By-Law 2020-053.

*Paul Riley*

IBI Group  
Paul Riley

Consulting Planner to the  
Municipality of Bayham

COUNTY OF ELGIN ROAD SYSTEM

DATE: May 6, 2021 ELGIN COUNTY ROAD NO.: 19 - 11265 Plank Road

TO: THE COUNTY OF ELGIN LAND DIVISION COMMITTEE

RE:

APPLICATION NO.: E 32-21 – E 35-21

OWNER: Jesse Froese

PROPERTY: LOT NO. Part Lot 22 CONCESSION: 8

REG'D PLAN: MUNICIPALITY: Bayham

The notice of the above application on the above premises has been received and I have the following comments to make:

- 1) Land for road widening is required .....  
*[Section 51 (25) of the Planning Act - That the owner dedicate lands along the frontage of the severed and retained lots/parcels up to 18 m from the centreline of construction of Plank Road County Road (19) to the County of Elgin for the purposes of road widening if the right of way is not already to that width, to the satisfaction of the County Engineer. All costs to be borne by the owner.*

X
- 2) A one-foot reserve is required along the N \_\_\_\_\_,  
S \_\_\_\_\_, E \_\_\_\_\_ and/or W \_\_\_\_\_ property line .....
- 3) Drainage pipes and/or catchbasin(s) are required .....
- 4) A Drainage Report is required under the Drainage Act \* (By Professional Engineer).....
- 5) A curb and gutter is required along the frontage .....
- 6) Direct Connection to a legal outlet for the severed lot is required - If an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited.....

X
- 7) Technical Reports .....
- 8) That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed and retained parcels. All costs associated with this shall be borne by the owner.....

X
- 9) Lot Grading Plan is required for the severed lot.....

X
- 10) The County has no concerns.....
- 11) Not on County Road .....
- 12) Please provide me with a copy of your action on this application .....
- 13) Other...

Note: These lands are subject to County of Elgin By-Law No. 92-57, as amended by By-Law No. 96-45, and any amendments made thereto hereafter, being a by-law to regulate the construction or alteration of any entranceway, private roads or access to a County road.



BRIAN LIMA, P. ENG.  
DIRECTOR OF ENGINEERING SERVICES



**County of Elgin**  
450 Sunset Drive  
St. Thomas, Ontario  
N5R 5V1 Canada  
Phone: 519-631-1460  
Fax: 519-633-7661  
www.elgin-county.on.ca

APPLICATION FOR CONSENT PURSUANT TO SECTION 53 OF THE PLANNING ACT,  
1990, AS AMENDED.

**To:** Elgin County Land Division Committee  
**From:** Nancy Pasato, Manager of Planning  
**Date:** May 26, 2021  
**Application:** E 35-21

**Owner:**  
**Jesse Froese**  
55903 Maple Grove Line  
Eden, ON N0J 1H0

**Agent:**  
**Andrew Gilvesy**  
261 Broadway P.O. Box 460  
Tillsonburg, ON N4G 4H8

**Location:** 11265 Plank Road, know legally as PART LOT 22 CON 8, Municipality of Bayham.

**PROPOSAL**

The applicants propose to sever a parcel with a frontage of 25.43 metres (83.43 feet) along Plank Road by a depth of 60 metres (196.85 feet) and an area of 0.15 hectares (0.37 acres) for future residential use. The owners are retaining 6.99 hectares (17.27 acres) proposed to remain in agricultural use.

**County of Elgin Official  
Plan**  
Settlement Area Tier 2

**Local Municipality Official  
Plan**  
Hamlets

**Local Municipality Zoning  
By-law**  
Hamlet Residential (HR(h2))

**REVIEW & ANALYSIS:**

**Public and Agency Comments**

*Municipality of Bayham* - recommends to the Elgin County Land Division Committee that consent applications E32-35-21 be granted subject to the provided conditions.

*County Engineering* – no objections. Conditions 3, 4, 5 & 6 regarding right of way, direct connection, a potential entrance permit and lot grading must be satisfied.

**Planning Act and Provincial Policy Statement**

In considering this application, staff must have regard to matters of Provincial Interest in accordance with Section 2 of the Planning Act (PA), and subdivision criteria in accordance with Section 51(24) of the PA.

The application shall also be consistent with the 2020 Provincial Policy Statement (PPS). Policy 1.1.4 (Rural Areas in Municipalities) outlines that settlement areas are to be the focus of growth and development within municipalities and land use patterns within settlement areas shall be based on densities and a mix of land uses. Additionally, land use patterns within settlement areas shall also be based on a range of uses and opportunities for intensification and redevelopment in accordance with the criteria in policy 1.1.3.3, where this can be accommodated.

The Applicant has indicated the severed portion of the lands will be created for future residential use. The retained parcel of the lands will be used for the existing agricultural purpose. The proposed severed lots are within a settlement area.

#### County of Elgin Official Plan

The settlement areas in the County are divided into three tiers based on their scale, function, and the level of services that exist in each settlement. The subject site is designated Settlement Area Tier 2 in the Elgin County Official Plan (OP). The second tier includes those settlement areas which are generally smaller in population than Tier 1 settlement areas and are on partial services (municipal water/individual onsite sewage services or individual on-site water/municipal sewage services). Limited development (including lot creation) is permitted in these settlement areas given the absence of full municipal services.

The applicant has indicated that the proposed development (i.e. lot creation) will be partially serviced (privately owned and operated individual well and a publicly owned and operated sewage system).

Development on partial services is permitted to allow for infilling and rounding out of existing development provided that:

- a) the proposed development is within the reserve sewage system capacity and reserve water system capacity; and
- b) site conditions are suitable for long-term provision of such services.

Section E.1.2.3.1 General Criteria outlines that consents may be supported subject to the application not creating any new traffic issues or hazards with appropriate access permitting; the proposed retained and severed lots have adequate size and frontage in accordance with the Zoning By-law; all other regulations of the Zoning By-law can be met; appropriate servicing exists or will exist; and the application will not have any adverse impacts on drainage, development of the retained lands, natural heritage or natural hazards. The applicant has addressed the abovementioned criteria and planning staff is satisfied there will be no adverse impacts as a result of this lot creation.

#### Local Municipality Official Plan and Zoning By-law

The subject lands are designated as Hamlets in the Municipality of Bayham Official Plan. The principle land use function within this designation is clusters of non-farm residential development in the form of single detached dwellings and other low/medium density development. Consents are generally discouraged and only supported by the municipality when a Plan of Subdivision is not required to protect the public interest. The proposal to create four lots where municipal sanitary sewers are available, would not require a Plan of Subdivision, and therefore the creation of these lots by consent is appropriate.

The subject lands are designated Hamlet Residential (HR(h2)), with a holding provision indicated by the "h2". The purpose of the "h2" holding symbol is to ensure orderly development by requiring the applicant to enter into a subdivision agreement with the



municipality. Therefore, the severed lands will require a rezoning to remove the Holding (h2) Zoning by entering into a Subdivision Agreement with the municipality.

**RECOMMENDATION:**

This application for consent is consistent with both the 2020 Provincial Policy Statement and complies with the County of Elgin Official Plan regarding lot creation in agricultural areas. As such, planning staff is of the opinion that the application is acceptable from a planning perspective and recommends approval subject to the following conditions:

1. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin; and
2. Solicitor Undertaking to provide a copy of registered deed for the severed parcel once completed
3. That the owners dedicate lands along the frontage of the severed and retained lots/parcels up to 18m from the centerline of construction of Plank Road County Road 19 to the County of Elgin for the purposes of road widening if the right of way is not already to that width, to the satisfaction of the County Engineer. All costs to be borne by the owner.
4. Direct connection to a legal outlet for the severed lot is required. If an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited;
5. That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed parcel. All costs associated with this shall be borne by the owner; and
6. A lot grading plan is required for the severed lot.
7. The applicant shall provide to the Land Division Committee a signed acknowledgement and undertaking confirming:
  - a. That the applicant has been advised that the Ontario Building Code Act requires confirmation of servicing including an individual on-site potable water supply and/or an individual on-site sewage system prior to the issuance of a building permit;
  - b. That the applicant has made the necessary inquiries of the Municipality to determine the work necessary in order to confirm that the site conditions are suitable for the long-term provision of such services with no negative impact; and
  - c. That the applicant undertakes to advise any future purchaser of the above acknowledgement and the results of such inquiries.
8. That the Municipality confirms that there is sufficient reserve sewage treatment capacity within the municipal sewage treatment system.

Additionally, it is recommended that the following conditions from the Municipality of Bayham be included as conditions for consent:

1. Installation of individual private wells with water quantity and water quality reports for bacteria and nitrates content meeting the Provincial standards for residential use, as a matter of public health and safety.
2. Engineer designed overall lot grading/drainage plan showing direct connection to the existing Municipal Drain.



**County of Elgin**  
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N5R 5V1 Canada  
Phone: 519-631-1460  
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[www.elgin-county.on.ca](http://www.elgin-county.on.ca)

3. Rezoning of the severed lands to remove the Holding (h2) Zone by entering into a Subdivision Agreement with the municipality.
4. Digital copy of the registered plan of survey.
5. Cash in Lieu of Parkland Dedication fee for each of the four created lots.
6. Purchase civic number signs for each of the four created lots.
7. Planning Report fee payable to the Municipality.



**CORPORATION OF THE COUNTY OF ELGIN**

**NOTICE OF APPLICATION FOR CONSENT**

**APPLICATION NO. E 36-21**

**LOT 1, CONCESSION 3  
MUNICIPALITY OF BAYHAM  
MUNICIPAL ADDRESS: 5934 RICHMOND ROAD**

**TAKE NOTICE** that an application has been made by **Benjamin, John and Teresa Vander Deen**, 5934 Richmond Road, Port Burwell, ON N0J 1T0 for a consent pursuant to Section 53 of the Planning Act, 1990, as amended, to sever lands municipally known as 5934 Richmond Road, Municipality of Bayham.

The applicants propose to sever a parcel with a frontage of 84.88 metres (278.47 feet) along Richmond Road by a depth of 46.15 metres (151.41 feet) and an area of 0.4006 hectares (0.99 acres), to be conveyed to 5906 Richmond Road. The owners are retaining 0.9065 hectares (2.24 acres) proposed to remain in the existing residential use.

The location of the property is shown on the Key Map attached.

**ADDITIONAL INFORMATION** regarding the application is available for inspection daily, Monday to Friday, between 8:30 A.M. and 4:30 P.M., at the County Municipal Offices, 450 Sunset Drive, St. Thomas or at a Public Hearing to be held on:

**WEDNESDAY May 26, 2021 AT 10:40 AM.  
BY VIDEO/TELEPHONE CONFERENCE OR IN PERSON AT  
Council Chambers, County Municipal Offices, 450 Sunset Drive, St. Thomas**

Any person or public body may attend the Public Hearing and/or make written or verbal representation either in support of, or in opposition to the proposed consent.

**PLEASE NOTE: YOUR PARTICIPATION BY VIDEO/TELECONFERENCE IS PREFERRED.**

**DUE TO PROVINCIAL ORDERS, ATTENDANCE IN PERSON MAY BE RESTRICTED. PLEASE CONTACT [npasato@elgin.ca](mailto:npasato@elgin.ca) AT LEAST 24 HOURS BEFORE THE MEETING TO ARRANGE FOR VIDEO/TELECONFERENCE OR TELEPHONE INFORMATION, OR TO CONFIRM IF IN PERSON ATTENDANCE IS POSSIBLE.**

If you wish to be notified of the decision of the Land Division Committee in respect of the proposed consent, you must submit a written request to the Land Division Committee. This will also entitle you to be advised of any appeal to the Local Planning Appeal Tribunal.

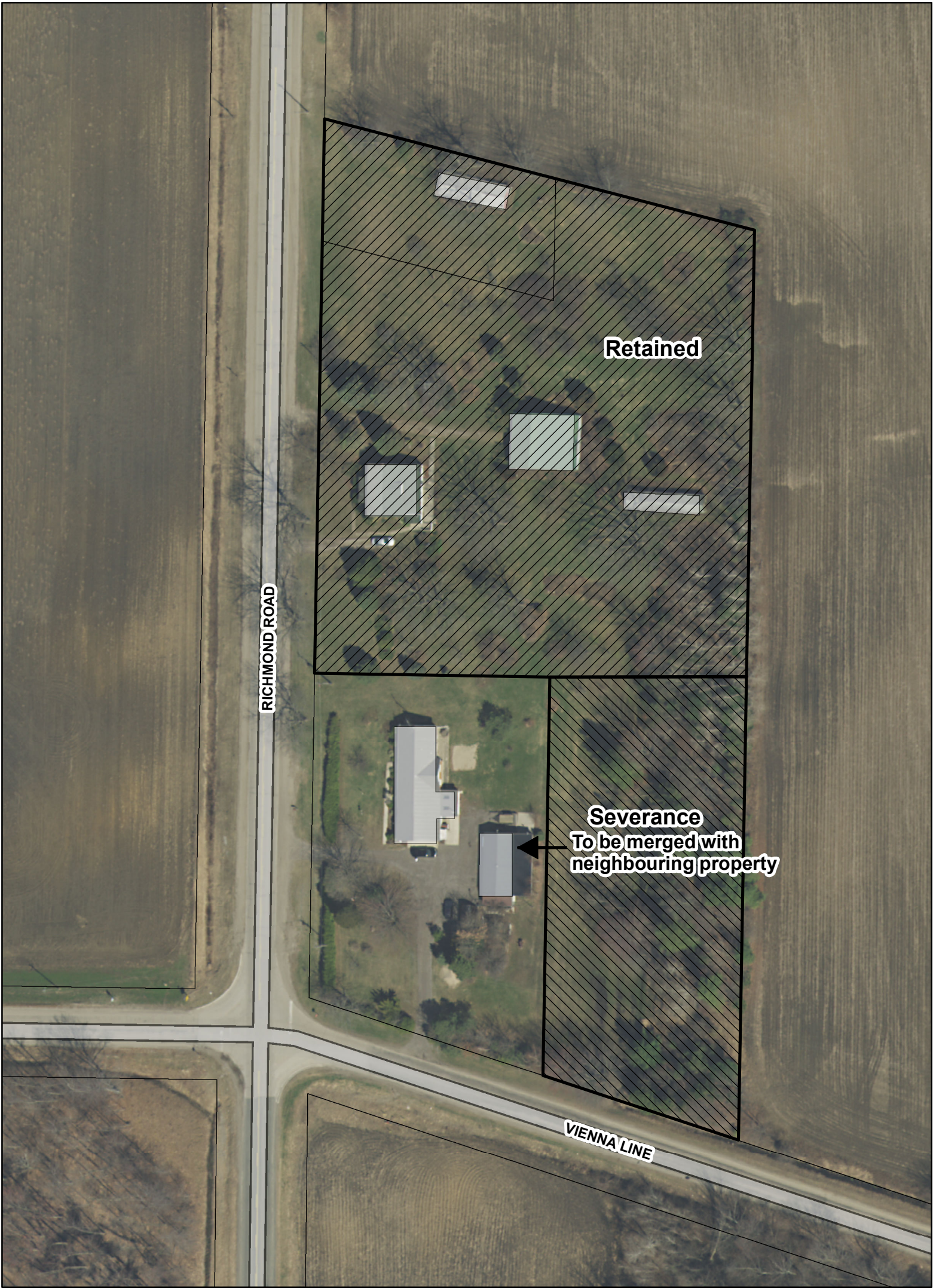
If a person or public body that files an appeal of a decision of the Land Division Committee in respect of the proposed consent does not make written or oral submissions to the Land Division Committee before it gives or refuses to give a provisional consent, the Local Planning Appeal Tribunal may dismiss the appeal.

Dated at the Municipality of Central Elgin this 5<sup>th</sup> day of May, 2021.

Nancy Pasato  
Acting Secretary-Treasurer  
Land Division Committee

**County of Elgin  
Planning Department**  
450 Sunset Drive  
St. Thomas, Ontario  
N5R 5V1 Canada  
Phone: 519-631-1460  
Fax: 519-631-4549

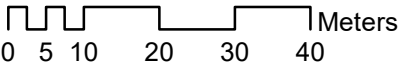




*Location Map*

Subject Site: 5934 Richmond Road  
File Number: E36-2021  
Owner: Benjamin, John and Teresa Vander Deen  
Planner: Nancy Pasato  
Created By: AL  
Date: 05/05/2021

The Corporation of the County Elgin  
Prepared By: Planning and Development

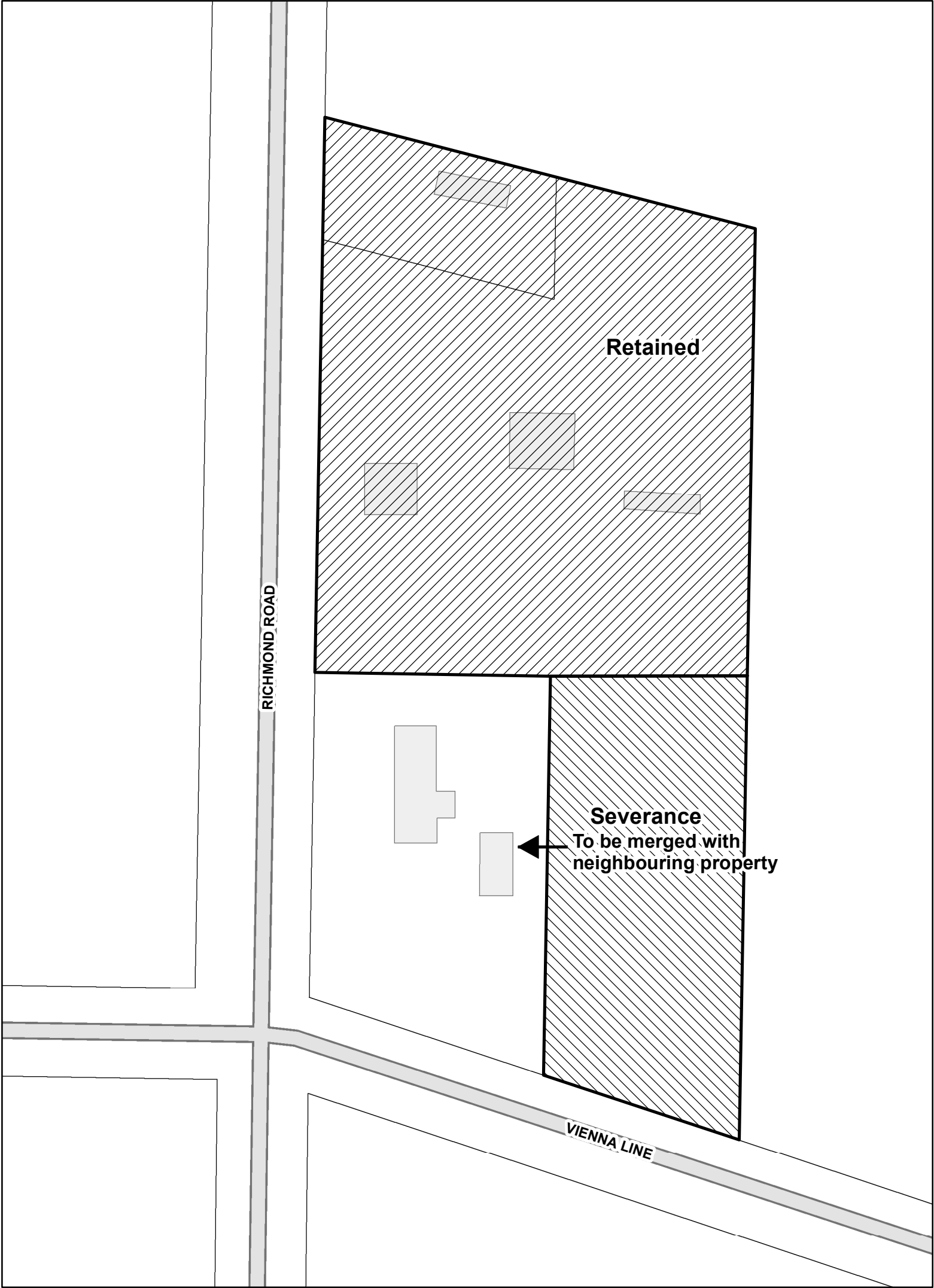


Scale 1:1,000

*Legend*

- Subject Site
- Severance
- Retained
- Elgin Road Network
- Buildings

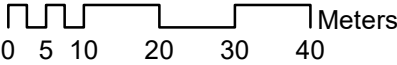




### Location Map

Subject Site: 5934 Richmond Road  
File Number: E36-2021  
Owner: Benjamin, John and Teresa Vander Deen  
Planner: Nancy Pasato  
Created By: AL  
Date: 05/05/2021

The Corporation of the County Elgin  
Prepared By: Planning and Development



Scale 1:1,000

### Legend

- Subject Site
- Severance
- Retained
- Elgin Road Network
- Buildings

## Bacteriological Analysis of Drinking Water for Private Citizen, Single Household Only

## Analyse bactériologique de l'eau potable - Particuliers, Ménages unifamiliaux seulement

## Submitter's Name and Mailing Address /

## Nom et adresse postale de l'auteur de la demande d'analyse

First Name, Last Name / Prénom, Nom de famille

BEN VANDER DEEN

Street address / Adresse municipale

5934 RICHMOND RD

PORT BURWELL, ON N0J 1T0

## Location of Water Source /

## Emplacement de la source d'eau

Lot, Concession / ou lot, concession

1 3

Emergency Locator # / 911#

5934

Street address / Adresse municipale

5934 RICHMOND RD

RR 1

BAYHAM ON N0J1T0

County / Comté: ELGIN

Health Unit # / # du bureau de santé: 4913

## Specimen details / Détails sur l'échantillon:

## Barcode / Code à barres: 11562141

Phone # / # tél.: 226 970 2483

Date/Time Collected / Date/heure du prélèvement\*: 2021-04-20 21:30:00

Date/Time Received / Date/heure Reçu le\*: 2021-04-22 15:48:00

Purification system used (e.g. UV, filtration, etc.)? /

Système d'épuration utilisé (p. ex. rayons UV, filtration, etc.)?

No / Non

Authorized by / Autorisé par

Chief, Medical Microbiology or Designate

## Specimen Note / Note sur l'échantillon:

This specimen was received in good condition unless otherwise stated. / À moins d'avis contraire, l'échantillon était en bonne condition au moment de la réception.

## Test results / Résultats d'analyse:

Total Coliform CFU/100 mL / Coliformes totaux UFC/100 mL

0

E.coli CFU/100 mL / E. coli UFC/100 mL

0

## Interpretation / Interprétation:

There is no evidence of fecal contamination. If the results show the presence of coliforms it may be indicative of a contaminated water supply. Given the vulnerability of well water to external influences, it is important to test water frequently. Consult local health unit for information if required.

Il n'y a aucune preuve de contamination fécale. Si les résultats indiquent la présence de coliformes, cela peut être révélateur d'une source d'eau polluée. L'eau des puits étant susceptible d'être dégradée par des facteurs externes, il est important de la faire analyser fréquemment. Consultez le bureau local de santé publique pour plus de détails, si nécessaire.

Date of Analysis / Date de l'analyse: 2021-04-22

Date Read / Analyse effectuée le: 2021-04-23

## Please Note / Prière de noter ce qui suit :

The results apply to the sample as received / Les résultats s'appliquent à l'échantillon, tel que reçu.

These results relate only to the sample tested. / Le résultat obtenu se rapporte seulement à cet échantillon d'eau analysé.

Note : This water sample was only tested for the presence of both Total Coliforms and E. coli (ISO/IEC 17025 accredited tests) bacterial indicators of contamination by Membrane Filtration. The sample was not tested for other contaminants, including chemical contaminants, and therefore may be unsafe to drink even when there is no significant evidence of bacterial contamination. Contact your local public health unit for information on testing for other contaminants. / Remarque: Cet échantillon d'eau n'a été analysé que pour déceler (par un laboratoire accrédité conformément à la norme ISO/IEC 17025) la présence des coliformes totaux et des bactéries colibacillaires, indicateurs de contamination par filtration sur membrane. L'échantillon n'a pas été testé pour d'autres contaminants, y compris les contaminants chimiques et, par conséquent, l'eau peut être impropre à la consommation même lorsqu'il n'y a aucune preuve significative de contamination bactérienne. Veuillez communiquer avec le bureau de santé publique de votre localité pour vous renseigner au sujet de l'analyse visant à détecter la présence d'autres contaminants.

If the reported client information does not match the information you supplied on the form please contact the PHO Customer Service Centre. Telephone: 1-877-604-4567 or 416-235-6556 or E-mail: customerservicecentre@oahpp.ca. For operating hours see our website [www.publichealthontario.ca/labs](http://www.publichealthontario.ca/labs). / Si les informations sur le client indiquées ne correspondent pas aux informations que vous avez fournies sur le formulaire, veuillez communiquer avec le Service à la clientèle de SPO par téléphone au 1-877-604-4567 ou 416-235-6556, ou par courriel au customerservicecentre@oahpp.ca. Pour connaître les heures d'ouverture, veuillez consulter notre site Web à [www.publichealthontario.ca/labs](http://www.publichealthontario.ca/labs).

End of report / Fin du rapport

\*All time values are EST / EDT / Toutes les heures sont exprimées en HNE ou en HAE.

Print Date / Date d'impression\*: 2021-04-23

Page 1 of 1

LIMS Report #: 40584774

Date Reported / Date du rapport\*: 2021-04-23 16:57:31

T\_SingleSampleOPHL\_WATPRIVATE.rpt



**J.B. Wilson & Son**  
**Well Drilling Ltd.**

R.R. #1 Springfield, ON  
519-269-3364 Fax: 519-269-3552

Bill Oostrom  
5906 Richmond Road  
Pt. Burwell, ON  
N0J 1T0

Nov 18, 2020

519-765-2764

Re: Well Inspections

**5906 Richmond Road**

Our company performed a well inspection at 5906 Richmond Road. This well is capable of sustainably producing approximately 15 GPM (gallons per minute).

This is more than adequate to supply a household (mortgage companies accept 3 GPM as enough water to supply a house).

**5934 Richmond Road**

Our company performed a well inspection at 5934 Richmond Road. This well is capable of sustainably producing approximately 10 GPM (gallons per minute).

This is more than adequate to supply a household (mortgage companies accept 3 GPM as enough water to supply a house).

If you require any additional information, please feel free to contact us at your convenience.

Regards,

Matt Wilson, Vice President  
MOE Technicians Licence #3300 – Class 1,2,3,4 / MOE Contractors Licence #5466



VanCorp Drainage & Excavating Inc.  
12709 Imperial Road, R.R. # 2  
Springfield, Ontario N0L 2J0  
(519)765-4445 FAX (519)765-4730  
Cell 519-521-9086

To Whom it may concern,

We have inspected the septic system for Bill Oostrom at <sup>5906</sup>~~5934~~ Richmond Road, Bayham Township and we find the existing septic system and tank are in good condition, and meet the approval of Van Gorp Drainage and Excavating Inc.

Please contact me for further information if needed. Our company BCIN number is 17382. Please note, we are not responsible for any issues with the weeping bed after the inspection is done.

Regards

Jason Van Gorp



VanGorp Drainage & Excavating Inc.  
12709 Imperial Road, R.R. # 2  
Springfield, Ontario N0L 2J0  
(519)765-4445 FAX (519)765-4730  
Cell 519-521-9086

To Whom it may concern,

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Please contact me for further information if needed. Our company BCIN number is  
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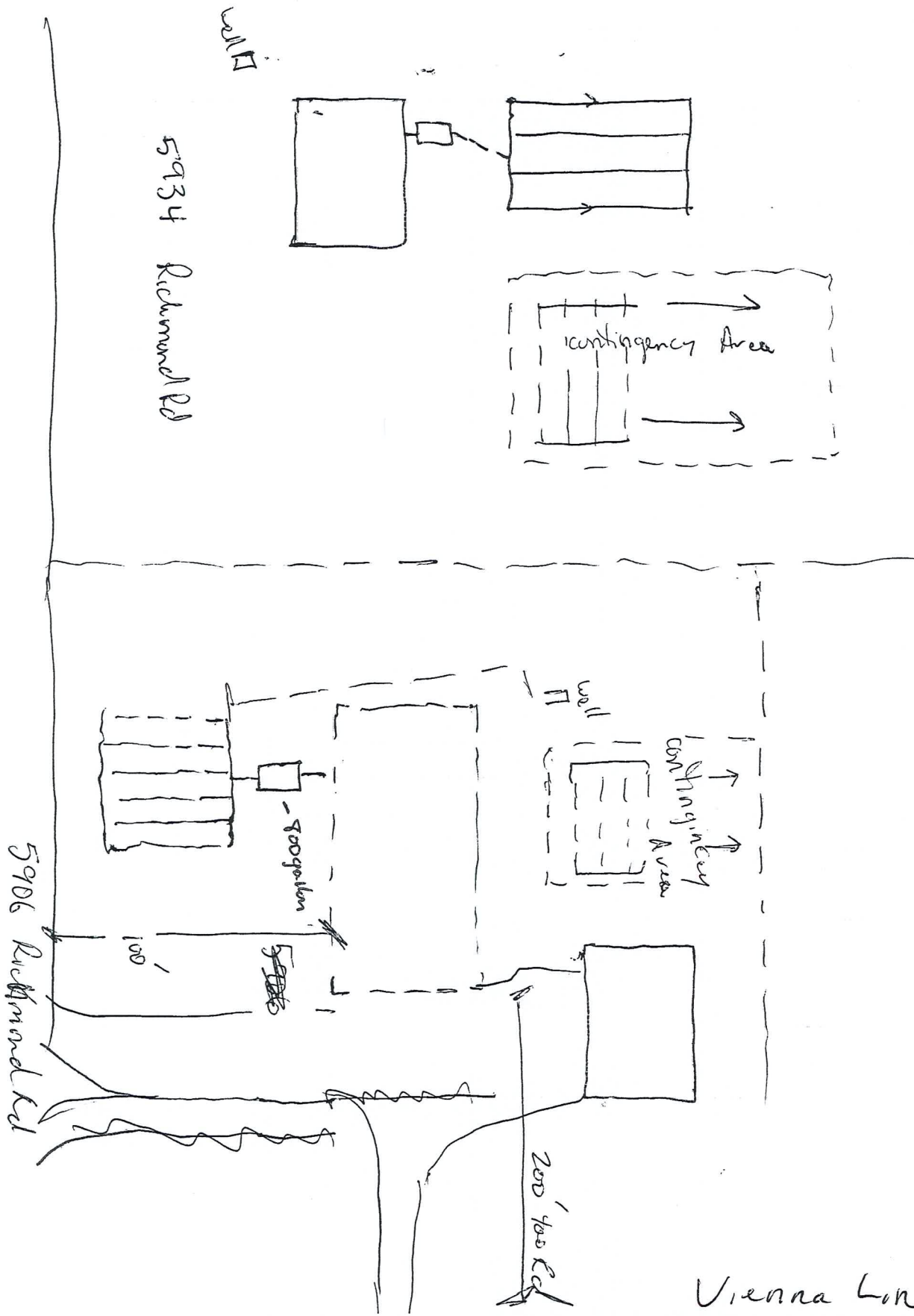
Regards

Jason Van Gorp



Fax (519) 765-4730

This map doesn't go to customer rough copy





# Bill Oostrom

Write a description for your map.

Legend





Bill Oostrom

RE: Ben. Van derdean

43

Existing Septic  
bedrock 4' x 4'  
40 ft Long



200 ft



## Dawn Wittland-Graham

---

**From:** Jon Barnett <Jon@strathroylaw.com>  
**Sent:** April 29, 2021 10:04 AM  
**To:** Nancy Pasato  
**Cc:** Ashley Podolinsky  
**Subject:** RE: Vanderdeen Severance

Hello Nancy,

We completed a more in depth title search in connection with the Oostrom property. The original lot was created in 1961. Following the creation of the lot, a road widening was completed that altered the dimensions of the original lot. As a result any consent that was previously given is no longer valid for the "once a consent, always a consent" rule.

The original lot, the last lot addition and this future lot addition will only be able to be dealt with as a whole.

Let me know if you require anything further.

Thanks,

Jon

**Jonathon Barnett | Bezaire Hemeryck Barnett Professional Corporation** | Lawyer | T: 519.245.0342 | F: 519.245.0108  
| [Jon@StrathroyLaw.com](mailto:Jon@StrathroyLaw.com) | 18 Front St E. Strathroy ON N7G 1Y4

---

**From:** Nancy Pasato <npasato@ELGIN.ca>  
**Sent:** April 27, 2021 1:26 PM  
**To:** Jon Barnett <Jon@strathroylaw.com>  
**Cc:** Ashley Podolinsky <Ashley@strathroylaw.com>  
**Subject:** RE: Vanderdeen Severance

Hi Jon – further to this if we cannot ascertain the below information shortly we will have to defer consideration and circulation of the application to the next LDC meeting date in June.

Please let me know this week if the below scenario applies, as if it does it will affect the ability to sever and convey.

Thanks.

**Nancy Pasato**  
*Manager of Planning*



450 Sunset Drive  
St. Thomas, ON. N5R 5V1  
(519) 631-1460 ext.126  
[www.elgincounty.ca](http://www.elgincounty.ca)



---

**From:** Nancy Pasato  
**Sent:** April 26, 2021 11:13 AM  
**To:** 'Jon Barnett' <[Jon@strathroylaw.com](mailto:Jon@strathroylaw.com)>  
**Cc:** Dawn Wittland-Graham <[dwittlandgraham@ELGIN.ca](mailto:dwittlandgraham@ELGIN.ca)>; Aisling Lavery <[alavery@ELGIN.ca](mailto:alavery@ELGIN.ca)>; Ashley Podolinsky <[Ashley@strathroylaw.com](mailto:Ashley@strathroylaw.com)>  
**Subject:** RE: Vanderdeen Severance

Hi Jon – I'm trying to ascertain whether the Oostrom original property was created under the severance policies of the Planning Act (and is therefore subject to "once a severance always a severance") or predates this. Do you have any information such as a deed or certificate for the Oostrom property (not part 3)?

Thanks.

**Nancy Pasato**  
*Manager of Planning*



450 Sunset Drive  
St. Thomas, ON. N5R 5V1  
(519) 631-1460 ext.126  
[www.elgincounty.ca](http://www.elgincounty.ca)

---

**From:** Jon Barnett <[Jon@strathroylaw.com](mailto:Jon@strathroylaw.com)>  
**Sent:** April 23, 2021 4:03 PM  
**To:** Nancy Pasato <[npasato@ELGIN.ca](mailto:npasato@ELGIN.ca)>  
**Cc:** Dawn Wittland-Graham <[dwittlandgraham@ELGIN.ca](mailto:dwittlandgraham@ELGIN.ca)>; Aisling Lavery <[alavery@ELGIN.ca](mailto:alavery@ELGIN.ca)>; Ashley Podolinsky <[Ashley@strathroylaw.com](mailto:Ashley@strathroylaw.com)>  
**Subject:** RE: Vanderdeen Severance

Hi Nancy,

I will correct the application and get it over this weekend.

The previous severance for Pt 3 on 11R10375 received a on time consent, so we will just do another one-time consent using a Form 3 and consolidate the parcels. I have attached a copy of this transfer from E31/18 with the consent page attached for your reference.

Thanks,

Jon

**Jonathon Barnett | Bezaire Hemeryck Barnett Professional Corporation | Lawyer | T: 519.245.0342 | F: 519.245.0108**  
**| [Jon@StrathroyLaw.com](mailto:Jon@StrathroyLaw.com) | 18 Front St E. Strathroy ON N7G 1Y4**

---

**From:** Nancy Pasato <[npasato@ELGIN.ca](mailto:npasato@ELGIN.ca)>  
**Sent:** April 23, 2021 3:56 PM  
**To:** Jon Barnett <[Jon@strathroylaw.com](mailto:Jon@strathroylaw.com)>

**Cc:** Dawn Wittland-Graham <[dwittlandgraham@ELGIN.ca](mailto:dwittlandgraham@ELGIN.ca)>; Aisling Lavery <[alavery@ELGIN.ca](mailto:alavery@ELGIN.ca)>

**Subject:** Vanderdeen Severance

Hi Jon-

I've noticed a few errors on the application that need attention.

Question 3 (c) should have 3401-000-008-06000 Wilhelmus & Joanne Oostrom

4 (a) should have Assessment Roll No. 3401-000-008-06100

16 (a) should be YES

16 (b) Grantee's name: Wilhelmus & Joanne Oostrom - Consent Application E31/18 McGregor added lands to Oostrom

Use of Parcel – added the metal clad barn to Oostrom as a lot addition

Date parcel created 2018

Needs to be noted on the Sketch as a previous consent – currently labelled as Part 3 11R10375

17 should be YES – lot to be enlarged received a previous severed parcel in E31/18 McGregor

Can you please update this information ASAP and resend?

So the issue is that based on the Planning Act, severed parcels that previously received a severance cannot be merged or consolidated. Therefore there will be an issue with the new severed parcel merging or consolidating with the previously severed parcel being Part 3 on RP 11R10375. How would you propose to address this then?

Thanks.

**Nancy Pasato**

*Manager of Planning*



450 Sunset Drive  
St. Thomas, ON. N5R 5V1  
(519) 631-1460 ext.126  
[www.elgincounty.ca](http://www.elgincounty.ca)



\*\*\*EXTERNAL\*\*

\*\*\*EXTERNAL\*\*

Municipality of  
**BAYHAM**

A: P.O. Box 160, 56169 Heritage Line  
Straffordville, ON N0J 1Y0

T: 519-866-5521

F: 519-866-3884

E: [bayham@bayham.on.ca](mailto:bayham@bayham.on.ca)

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May 10, 2021

EMAIL ONLY

Nancy Pasato, Acting Secretary-Treasurer  
Elgin County Land Division Committee  
450 Sunset Drive  
St. Thomas ON N5R 5V1

Dear Ms. Pasato,

**Re: Application for Consent No. E36-21 Vander Deen**

Please be advised that the Council of the Municipality of Bayham passed the following resolution adopted at the May 6, 2021 meeting:

**THAT Staff Report DS-28/21 regarding Consent application E36-21 Vander Deen be received for information;**

**AND THAT Council supports and recommends to the Elgin County Land Division Committee that Consent Application E36-21, submitted by Benjamin, John and Teresa Vander Deen be granted subject to the following considerations and conditions:**

1. Digital Copy of the final survey
2. Planning report fee payable to the municipality
3. Letter of Undertaking from a solicitor/lawyer confirming the severed lands from 5934 Richmond Road will merge on title with the lands at 5906 Richmond Road
4. Rezoning of the retained lands to a site-specific Rural Residential (RR) Zone to recognize residential use in accordance to the Official Plan and reduced front yard setback
5. Rezoning of the merged lands, the severed lands and the 5906 Richmond Road lands to a Rural Residential (RR) Zone to recognize residential use in accordance to the Official Plan

Municipal Appraisal Sheet and Staff Report DS-28/21 emailed with this letter. If you have any questions or require additional information, please do not hesitate to contact me.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Margaret Underhill', is written over a faint, larger version of the same signature.

Margaret Underhill  
Acting Clerk/Planning Coordinator

D09.Vander Deen  
Cc: Jon Barnett (email)

## MUNICIPAL APPRAISAL SHEET – LAND DIVISION COMMITTEE

Your assistance is requested in answering the questions below. Please complete Parts 1 and 2 and submit to the Secretary Treasurer of the Land Division Committee as soon as possible. Please complete and submit Part 3 once the local Council has provided a recommendation on the application.

Submission E 36-21

Applicant Benjamin, John and Teresa Vander Deen

Location Bayham – 5934 Richmond Rd Concession 3 Part Lot 1

### PART 1 - OFFICIAL PLAN

1. Is there an O.P. in effect? Yes ( X ) No ( )

2. Does the proposal conform with the O.P.? Yes (X) No ( )

Land Use Designation: Hamlets

Policies: OP 2.1.9 Minor Lot Adjustments and OP Section 8.7.2.5

### PART 2 - ZONING

3. Is there a By-Law in effect? Yes (X) No ( )

4. Does the proposal conform with all requirements of the By-Law? Yes ( ) No (X)

Comments: Zoning: Agricultural and Natural Gas Reservoir

Rezoning required to change the zoning on the retained lands and the severed parcel

5. If not, is the Municipality prepared to amend the By-Law? Yes ( X ) No ( )  
Rezoning application required

PART 3 – COUNCIL RECOMMENDATION – please complete below and send to the Secretary Treasurer of the Land Division Committee and attached any comments, staff reports(s) and Council resolutions/recommendations

6. Does the Municipality foresee demand for new municipal services? Yes ( ) No (X)

7. If so, is the Municipality prepared to provide those services? Yes ( ) No ( )

8. Does the Municipality wish the Committee to impose conditions? Yes (X) No ( )

9. Does Council recommend the application? Yes (X) No ( )

10. Does the municipality have other concerns that should be considered by the Committee?

Staff Report and Resolution attached – Council meeting held May 6, 2021

2.1.9 **Minor lot adjustments**

- 2.1.9.1 Consents to sever and convey land in areas designated "Agriculture" shall be permitted for minor lot adjustments, minor lot additions, minor boundary changes, easements and rights of way, technical severance or correction of title, provided no new conveyable lot(s) are created.

2.1.10 **Supplementary Farm Dwellings**

- 2.1.10.1 The Municipality supports the erection or placement of additional dwellings on farm parcels where the size or nature of the farming operation warrants additional dwellings. Such dwellings may only be permitted by a minor variance to the Zoning By-law and may not be severed from the farm operation. Such dwellings may be temporary dwellings in the form of a mobile home or modular home; or a permanent dwelling in the form of a converted dwelling or bunkhouse. Farming operations shall refer to any parcels owned, or owned in part by an applicant. Establishment of supplementary farm dwellings will be permitted subject to the following criteria:

- a) **Need**: Sufficient information must be provided which outlines how the type, scale, and/or size of the farm operation warrant the need for a supplementary farm dwelling;
- b) **Existing dwellings**: Sufficient justification must be provided to show how any existing supplementary farm dwellings that are part of the farming operation can't satisfy the housing needs of the farming operation;
- c) **Location**: Sufficient justification must be provided to show how the location of the supplementary farm dwelling makes efficient use of existing services and infrastructure and how the location will not impact surrounding land uses. Preference will be given to close proximity to principal farm dwellings and the use of natural landscaping to buffer temporary dwellings from surrounding land uses;
- d) **Size and type**: The supplementary farm dwelling unit is of a minimum size and type that can accommodate both health unit and building code requirements, and shall be no larger than necessary to accommodate the needs of the temporary farm help residing in the dwelling. Preference will be given to temporary dwellings, or alternatively permanent dwellings that are one storey in height with a maximum floor area of approximately 167m<sup>2</sup>



## **SECTION 7      RURAL RESIDENTIAL (RR) ZONE REGULATIONS**

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### **7.1    Permitted Uses**

No land shall be used and no buildings or structures shall be erected, used or altered in the Rural Residential (RR) Zone except for the following purposes:

One single detached residential dwelling on one lot;

Home occupation;

Home occupation, agricultural;

Private garage or carport as an accessory use;

Accessory uses.

### **7.2    Permitted Buildings and Structures**

Buildings and structures for the permitted uses.

Accessory buildings and structures for the permitted uses.

### **7.3    Minimum Lot Area**

0.4ha

### **7.4    Minimum Lot Frontage**

50.0m

### **7.5    Maximum Lot Coverage**

20%

### **7.6    Maximum Building Height**

10.5m

### **7.7    Minimum Ground Floor Area for Dwellings**

Z698-2020

### **7.8    Minimum Front Yard Depth**

15.0m

### **7.9    Minimum Side Yard Width**

3.0m

### **7.10   Minimum Rear Yard Depth**

15.0m

### **7.11   Regulations for Accessory Buildings**

7.11.1      The establishment of new livestock uses, livestock-related buildings and structures, and mushroom farms shall not be permitted.

7.11.2      No accessory buildings or structures shall be located within 3 metres of a side or

rear lot line.

**7.12 Minimum Distance Separation**

From the edge of a railroad right-of-way:	30.0 metres
From a sewage lagoon or solid waste disposal site:	300.0 metres
From livestock buildings and structures:	The distance determined on application of M.D.S. I

**7.13 Exceptions - Rural Residential (RR) Zone**

**7.13.1**

**7.13.1.1 Defined Area**

RR-1 as shown on Schedule "A", Map 11 to this By-law.

**7.13.1.2 Permitted Uses**

One seasonal supplementary dwelling;

The commercial production of earthworms as an accessory use within the permitted dwelling.

**7.13.1.3 Maximum Lot Area**

8,500 m<sup>2</sup>

**7.13.1.4 Minimum Lot Frontage**

85.0 metres

**7.13.1.5 Minimum Floor Area**

55.0 m<sup>2</sup>

**7.13.2**

**7.13.2.1 Defined Area**

RR-2 as shown on Schedule "A", Map 5 to this By-law.

**7.13.2.2 Permitted Uses**

Greenhouse, as an accessory use, in addition to permitted uses.

**7.13.2.3 Permitted Buildings and Structures**

Existing buildings and structures for the permitted uses.

**7.13.3**

**7.13.3.1 Defined Area**

RR-3 as shown on Schedule "A", Map 2 to this By-law.



# REPORT

## DEVELOPMENT SERVICES

**TO:** Mayor & Members of Council  
**FROM:** Margaret Underhill, Deputy Clerk/Planning Coordinator  
**DATE:** May 6, 2021  
**REPORT:** DS-28/21 **FILE NO. C-07 / D9.21 Vander Deen**  
**Roll # 3401-000-008-06100**

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**SUBJECT:** Consent Application E36-21 Vander Deen – Lot Addition

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### BACKGROUND:

A consent application was received from the Elgin County Land Division Committee submitted by Appointed Agent Jon Barnett on behalf of clients Benjamin, John and Teresa Vander Deen proposing to sever 4006.8 m<sup>2</sup> (0.99 ac) of land and to retain 9065.1 m<sup>2</sup> (2.24 ac) of land with the intent of conveying the severed piece to the owners of the adjacent property owned by Wilhelmus & Joanne Oostrom. The subject lands are described as Concession 3 Lot 1 known municipally as 5934 Richmond Rd and designated "Agriculture" and "Natural Gas Reservoir" on Schedule 'A1' Municipality of Bayham: Land Use of the Official Plan. The lands are zoned Agricultural (A1) Zone on Schedule "A" Map No. 10 in the Zoning By-law Z456-2003.

Elgin County Land Division Committee will consider the application at the meeting scheduled for May 26, 2021.

### DISCUSSION:

The intent of the severance is to add lands to the adjacent property. The planner's memorandum dated April 29, 2021 provides the analysis of the application against the Bayham Official Plan and Zoning By-law policies.

Staff and planner recommend Council's support of the consent application with the recommended conditions as presented.

### ATTACHMENTS

1. Consent Application E36-21 Vander Deen
2. IBI Group memorandum dated April 29, 2021

## RECOMMENDATION

**THAT Staff Report DS-28/21 regarding Consent application E36-21 Vander Deen be received for information;**

**AND THAT Council supports and recommends to the Elgin County Land Division Committee that Consent Application E36-21, submitted by Benjamin, John and Teresa Vander Deen be granted subject to the following considerations and conditions:**

- 1. Digital Copy of the final survey**
- 2. Planning report fee payable to the municipality**
- 3. Letter of Undertaking from a solicitor/lawyer confirming the severed lands from 5934 Richmond Road will merge on title with the lands at 5906 Richmond Road**
- 4. Rezoning of the retained lands to a site-specific Rural Residential (RR) Zone to recognize residential use in accordance to the Official Plan and reduced front yard setback**
- 5. Rezoning of the merged lands, the severed lands and the 5906 Richmond Road lands to a Rural Residential (RR) Zone to recognize residential use in accordance to the Official Plan**

Respectfully Submitted by:

Reviewed by:



Margaret Underhill  
Deputy Clerk|Planning Coordinator



Thomas Thayer  
CAO|Clerk



IBI GROUP  
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London ON N6H 1T3 Canada  
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ibigroup.com

## Memorandum

<b>To/Attention</b>	Municipality of Bayham	<b>Date</b>	April 29, 2021
<b>From</b>	Paul Riley BA, CPT	<b>Project No</b>	3404-813
<b>cc</b>	William Pol, MCIP, RPP		
<b>Subject</b>	Vander Deen - 5934 Richmond Road, Concession 3, Part Lot 1, Part 2 Registered Plan 11R10375 - Application for Consent E36/21		

1. We have completed our review of the consent application submitted by Jon Barnett (BHB Law) on behalf of Benjamin, John and Teresa Vander Deen for lands located at 5934 Richmond Road, east side and north side of Vienna Line. The applicant is requesting consent for severance of 4,006.8 m<sup>2</sup> (0.99 acres) of land and to retain 9,065.1 m<sup>2</sup> (2.24 acres) of land. The intent is lot addition to the adjacent residential parcel, known as 5906 Richmond Road. The lands are designated Agricultural and Natural Gas Reservoir on Schedule "A": Land Use in the Official Plan. The lands are zoned Agriculture (A1) on Schedule "A", Map No. 10 in Zoning By-law Z456-2003.
2. The subject lands are characterized as an irregular residential lot with frontage on both Richmond Road and Vienna Line and comprises a dwelling and two accessory buildings. The severed lands are characterized as vacant with natural vegetation and has 45 m (147 ft) of lot frontage on Vienna Line. The lot addition lands are characterized as a rectangular residential lot and comprises a dwelling and accessory building. Surrounding land uses are agricultural.
3. In 2018, by way of Consent application E31/18, the owners severed a portion of the subject lands and added them to the 5906 Richmond Road parcel (the lot addition lands) to include existing accessory building within the parcel boundary and improve building setbacks.
4. The Municipality of Bayham Official Plan Section 2.1.9 Minor Lot Adjustments indicates that minor boundary adjustments to convey land shall be permitted if no new conveyable lot is created. The intent of the application is to add the severed lands to the adjacent parcel and to continue residential use with no new lot created. Based on no new lot being created, notwithstanding other policies of the Plan, the consent is in conformity with the Official Plan.
5. The Municipality of Bayham Official Plan Section 8.7.2.5 indicates that lot additions are permitted in any land use designation, provided the severance does not result in the creation of a new lot, the severed and retained parcels comply with the other

Municipality of Bayham – April 28, 2021

requirements of the Official Plan, the Zoning By-law, and where applicable, the consent decision shall stipulate that Subsection 3 of Section 50 of the Planning Act, be applied to any subsequent conveyance of the severed parcel. The Agent has indicated that there was previous road widening dedication from the original lots which means that Section 50 exception is not required to facilitate the proposed consent. The proposed consent does not create a new lot or the need for a Plan of Subdivision which is in conformity to the Official Plan.

6. The subject lands are located in the Agricultural (A1) zone in By-law Z456-2003 and are considered non-conforming residential use. According to Official Plan Section 8.7.2.5 the severed and retained parcels shall comply with the Zoning By-law. Both the retained, severed and lot addition lands are not used for agriculture, do not meet the minimum lot area and minimum lot frontage for the A1 zone. Based on required conformity to the Zoning By-law it is appropriate to require, as a condition of consent, that both the retained and severed/lot addition lands be rezoned to a Rural Residential (RR) zone. The rezoning will include recognizing the reduced front yard setback for the existing dwelling on the retained lands.
7. Based on the above review of consent application E36/21 we have no objection to the proposed consent to sever 4,006.8 m<sup>2</sup> land area from the subject lands to add to the adjacent parcel, conditional on the following:
  - a) That the owners merge the severed lands with the lands known as 5906 Richmond Road.
  - b) That the owners rezone the retained lands to a site-specific Rural Residential (RR) Zone to recognize residential use in accordance to the Official Plan and reduced front yard setback.
  - c) That the owners rezone the merged lands, the severed lands and the 5906 Richmond Road lands, to a Rural Residential (RR) Zone to recognize residential use in accordance to the Official Plan.
  - d) That the owners provide a survey of the lands.
  - e) That the owners provide a Planning Report Fee payable to the Municipality of Bayham.

Paul Riley

IBI Group  
Paul Riley, CPT

Consulting Planner to the  
Municipality of Bayham



# COUNTY OF ELGIN ROAD SYSTEM

**DATE:** May 6, 2021 **ELGIN COUNTY ROAD NO.:** 43 - 5934 Richmond Road

**TO: THE COUNTY OF ELGIN LAND DIVISION COMMITTEE**

**RE:**

**APPLICATION NO.:** E 36-21

**OWNER:** Benjamin, John and Teresa Vander Deen

**PROPERTY:**      **LOT NO.**      1      **CONCESSION:**      3

**LOT NO.** 1 **CONCESSION:** 3

**REG'D PLAN:** \_\_\_\_\_ **MUNICIPALITY:** Bayham

**The notice of the above application on the above premises has been received and I have the following comments to make:**

- |   |                                     |
|---|-------------------------------------|
| 1) Land for road widening is required .....<br>[Section 51 (25) of the Planning Act - That the owner dedicate lands along the frontage of the severed and retained lots/parcels up to      m from the centreline of construction of      to the County of Elgin for the purposes of road widening if the right of way is not already to that width, to the satisfaction of the County Engineer. All costs to be borne by the owner. | <input type="checkbox"/>            |
| 2) A one-foot reserve is required along the N_____,<br>S_____, E_____ and/or W_____ property line .....   | <input type="checkbox"/>            |
| 3) Drainage pipes and/or catchbasin(s) are required .....   | <input type="checkbox"/>            |
| 4) A Drainage Report is required under the Drainage Act * (By Professional Engineer).....   | <input type="checkbox"/>            |
| 5) A curb and gutter is required along the frontage .....   | <input type="checkbox"/>            |
| 6) Direct Connection to a legal outlet for the severed lot is required - If an existing connection is unavailable, to the satisfaction of the County Engineer. All costs to be borne by the owner. Discharge of water to the County road allowance is prohibited.....   | <input type="checkbox"/>            |
| 7) Technical Reports .....  | <input type="checkbox"/>            |
| 8) That, if necessary, an entrance permit be obtained from Elgin County for the entrance to the severed and retained parcels. All costs associated with this shall be borne by the owner.....   | <input type="checkbox"/>            |
| 9) Lot Grading Plan is required for the severed lot.....  | <input type="checkbox"/>            |
| 10) The County has no concerns.....   | <input checked="" type="checkbox"/> |
| 11) Not on County Road .....  | <input type="checkbox"/>            |
| 12) Please provide me with a copy of your action on this application .....  | <input type="checkbox"/>            |
| 13) Other...  | <input type="checkbox"/>            |

**Note:** *These lands are subject to County of Elgin By-Law No. 92-57, as amended by By-Law No. 96-45, and any amendments made thereto hereafter, being a by-law to regulate the construction or alteration of any entranceway, private roads or access to a County road.*



**BRIAN LIMA, P. ENG.**  
**DIRECTOR OF ENGINEERING SERVICES**



**County of Elgin**  
450 Sunset Drive  
St. Thomas, Ontario  
N5R 5V1 Canada  
Phone: 519-631-1460  
Fax: 519-633-7661  
www.elgin-county.on.ca

APPLICATION FOR CONSENT PURSUANT TO SECTION 53 OF THE PLANNING ACT,  
1990, AS AMENDED.

**To:** Elgin County Land Division Committee  
**From:** Nancy Pasato, Manager of Planning  
**Date:** May 26, 2021  
**Application:** E 36-21

**Owner:**  
**Benjamin, John & Teresa Vander Deen**  
5934 Richmond Road  
Port Burwell, ON N0J 1T0

**Agent:**  
**Jon Barnett – BHB Law**  
18 Front Street  
Strathroy, ON N7G 1Y4

**Location:** 5934 Richmond Road – legally described as LOT 1 CON3, Municipality of Bayham.

**PROPOSAL**

The applicants propose to sever a parcel with a frontage of 84.88 metres (278.47 feet) along Richmond Road by a depth of 46.15 metres (151.41 feet) and an area of 0.4006 hectares (0.99 acres), to be conveyed to 5906 Richmond Road. The owners are retaining 0.9065 hectares (2.24 acres) proposed to remain in the existing residential use.

**County of Elgin Official  
Plan**  
Agricultural Area

**Local Municipality Official  
Plan**  
Agriculture  
Natural Gas Reservoir

**Local Municipality Zoning  
By-law**  
Agricultural (A1)

**REVIEW & ANALYSIS:**

**Public and Agency Comments**

*Municipality of Bayham* – Council support and recommends to the Elgin County Land Division Committee that Consent application E 36-21 be granted subject to the provided conditions.

*County Engineering* – no concerns.

**Planning Act and Provincial Policy Statement**

In considering this application, staff must have regard to matters of Provincial Interest in accordance with Section 2 of the Planning Act (PA), and subdivision criteria in accordance with Section 51(24) of the PA.

The application shall also be consistent with the 2020 Provincial Policy Statement (PPS).

Policy 2.3.4.2 states that lot adjustments in prime agricultural areas may be permitted for legal or technical reasons.

The Applicant has indicated the severed portion of the lands will be conveyed to the adjacent property at 5906 Richmond Road, ultimately allowing the parcel at 5906 Richmond Road to match up depth-wise with the neighbouring parcel at 5934 Richmond Road. The retained parcel of the lands will be used for the existing residential purpose. There will be no changes to the adjacent farmland or services required. The proposed severance is a lot adjustment for legal or technical reasons.

#### County of Elgin Official Plan

The subject site is designated Agricultural Area in the Elgin County Official Plan (OP). Section 1.2.3.4 regarding Lot Creation in the Agricultural Area states that in addition to the severing of agricultural lots to create parcels for agricultural uses, to allow the severance of a surplus farm dwelling, and to create a new lot required for an agricultural related use, consents may also be granted for legal or technical reasons, such as for easements, correction of deeds, quit claims and minor boundary adjustments that do not result in the creation of a new lot.

Section 1.2.3.2 Boundary Adjustments outlines criteria related to consents for the purpose of modifying lot boundaries that do not result in the creation of a new lot. Such applications will only be permitted if the boundary adjustment will not affect the viability of the properties affected or agricultural parcels affected, if applicable.

As stated by the Applicant, the severed lands are proposed to be conveyed to the adjacent residential property at 5906 Richmond Road and the retained parcel will be maintained as the existing residential use. The two lots, as adjusted, will facilitate in creating a more uniform pattern of development and currently, no changes to the land uses or servicing requirements are proposed. There will be no impact to the surrounding agricultural uses and no new lot created.

#### Local Municipality Official Plan and Zoning By-law

The subject lands are designated Agricultural and Natural Gas Reservoir on Schedule A: Land Use in the Municipality's Official Plan. Section 2.1.9 (Minor Lot Adjustments) of the Official Plan indicates that minor boundary adjustments to convey land shall be permitted if no new conveyable lot is created. The applicant intends to add the severed lands to the adjacent parcel and to continue residential use with no new lot created. Based on no new lot being created, the consent is in conformity with the Official Plan.

The subject lands are within the Agricultural (A1) Zone of the Municipality's Zoning By-law and are considered non-conforming residential use. As per section 8.7.2.5 of the Official Plan, both the severed and retained lands shall comply with the Zoning By-law. Both the severed and retained lands are not used for agriculture, and do not meet the lot area and minimum lot frontage for the A1 zone. Based on the required conformity to the Zoning By-law it is appropriate to require, as a condition of consent, that both the retained and severed lands undergo a zoning by-law amendment to a Rural Residential (RR) Zone. This rezoning would also include recognizing the reduced front yard setback for the existing dwelling on the retained lands.

**RECOMMENDATION:**

This application for consent is consistent with both the 2020 Provincial Policy Statement and complies with the County of Elgin Official Plan regarding lot creation in settlement areas. As such, planning staff is of the opinion that the application is acceptable from a planning perspective and recommends approval subject to the following conditions:

1. A digital copy of the draft and final deposited reference plan be provided to the County of Elgin;
2. Solicitor Undertaking to provide copy of registered deed for the severed parcel once completed; and
3. That the severed lands are deeded in the same name and interest as the abutting lot at 5906 Richmond Road and that Section 50 (3) of the Planning Act applies to any future consent affecting the same lands.

Additionally, it is recommended that the following conditions from the Municipality of Bayham be included as conditions for consent:

1. Digital Copy of the final survey.
2. Planning report fee payable to the municipality.
3. Letter of Undertaking from a solicitor/lawyer confirming the severed lands from 5934 Richmond Road will merge on title with the lands at 5906 Richmond Road.
4. Rezoning of the retained lands to a site-specific Rural Residential (RR) Zone to recognize the residential use in accordance to the Official Plan and reduced front yard setback.
5. Rezoning of the merged lands, the severed lands and the 5906 Richmond Road lands to a Rural Residential (RR) Zone to recognize the residential use in accordance to the Official Plan.

## THE VALIDATION CERTIFICATE: SECTION 57 OF THE *PLANNING ACT*

### What is it and when and how is it used?<sup>1</sup>

Sidney H. Troister, LSM<sup>2</sup>  
Torkin Manes LLP  
Updated October 2018

A certificate of validation is used to make valid a document or documents that previously contravened the Act. If a person owned 2 parcels of abutting land and transferred or gave a mortgage only on part of that land, the transfer or mortgage would not create an interest in land. A validation certificate would make that transfer or mortgage valid. Where a validation certificate has the effect of validating a prior transfer, one might call it a validation of title.

Validations are not the same as consents under the *Planning Act* and are not governed by the same rules or procedures as consents. Because validations are not that commonly used, some councils have taken comfort in using the consent procedure for validations but they are very different in effect and the rules and procedures applicable for consents or severances do not apply.

A validation certificate does not validate specific documents but it has that ultimate effect. Instead, it states that any contravention of the Act involving a specific parcel of land is deemed never to have prevented the creation of an interest in that land. Thus, it describes a specific parcel of land which the council or committee regards as an appropriate parcel for planning purposes and retroactively cures any prior contraventions involving that parcel of land. The language of Section 57(1) is similar in effect to Section 50(14) and the 1967 retroactive cure of *Planning Act* breaches.

### Some Basic Principles

1. Validations are governed by section 57 and not sections 50 or 53 of the Act. The procedures are different.

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<sup>1</sup> This paper was first presented in 2013 to the Ontario Association for Consenting Authorities to assist their members who are largely committees of adjustments and land division committees in understanding the procedural differences between consents and validations of title. It has been updated to address lawyers' concerns about the procedure.

<sup>2</sup> Sidney Troister is a partner of Torkin Manes LLP in Toronto. He was called to the bar in Ontario in 1974 and has a diversified commercial and real estate law practice. He is the author of *The Law of Subdivision Control in Ontario*, a text devoted to section 50 of the *Planning Act* and is considered the leading expert on subdivision control in Ontario. From 1990-2000, he was a co-head of the real estate section of the Ontario Bar Admission Course. He received the 2000 Award for Excellence in Real Estate Law from the Ontario Bar Association and is recognized by Lexpert magazine as one of the 500 Leading Lawyers in Canada. In 2015, he was recognized as "Lawyer of the Year" by Best Lawyers in Canada for Real Estate Law in Toronto. He was awarded the Law Society Medal in 2008. In 2015, he was elected Benchers (Governor) of the Law Society of Upper Canada. He acts as counsel to the Lawyers Professional Indemnity Company, the insurer for lawyers in Ontario and is regularly retained to correct *Planning Act* errors necessitating applications for consents and validations throughout Ontario.



2. Validations certificates do not have the same effect as consents. Section 50 principles like the effect of sections 50(12) do not apply.

3. They fix mistakes in the history of title. If two properties are merged, a consent is required to separate them. If an owner owns land and does not have legal title to it, then validation can be used to cure the invalid prior transfer. If a lender has a mortgage that breached the act because the borrower owned abutting land when the mortgage was given, a validation certificate can cure the mortgage and make it valid.

4. The certificate is valid when issued. It does not get attached to a transfer and does not depend on a transaction to implement it. While it need not be registered, it should be so that there is a public record of it. It gets registered as a stand alone certificate on the title that is the subject matter of the certificate.

### **When Is It Used?**

Section 57 is most often used to validate or correct a prior registered document that breached the Act and that thereby did not create an interest in land. The certificate deems the contravention never to have had the effect of invalidating the document. It is used to correct prior *Planning Act* errors and mistakes. The effect of the validation certificate may be to create a new parcel for *Planning Act* purposes but more typically creates a valid document that relates to an already recognized separate parcel of land.

It most often occurs when a person has dealt with land and has become subject to one of the many hidden conveyancing traps in the *Planning Act*. It is often brought to correct an error made by a solicitor arising from a misunderstanding of the application of the *Planning Act* to certain types of transactions.

Typical examples are as follows:

Owner owns Parcel A and gives a mortgage on Parcel A to the bank.  
Owner buys abutting Parcel B.  
Owner refinances Parcel A and gives a new mortgage to the bank.  
The new mortgage to the bank is invalid.

A validation certificate in respect of parcel A would validate the mortgage on parcel A.

Owner owns A  
Owner buys B which abuts.  
Owner transfers A without consent to X.  
X mortgages A to the bank.  
The transfer to X and X's mortgage to the bank are invalid.

A validation certificate in respect of Parcel A would validate both the transfer to X and the mortgage to Y.

Owner owns A and B which abut.  
Owner obtains consent to convey A and convey A to herself.  
Owner sells B to X.

X mortgages B to the bank.

The transfer to X and the mortgage to the bank are invalid.

A validation certificate in respect of parcel B would validate the transfer to X and the mortgage to the bank. (This is the typical *Acchione* trap.)

Owner owns Parcel A and then buys parcel B which abuts.

Owner puts a new mortgage on parcel B in favour of the bank.

Owner gives his vendor a mortgage on B to secure part of the purchase price.

The new mortgage to the bank is invalid. The vendor's mortgage is valid because of section 50(8) and is in first priority position.

A validation certificate in respect of parcel B would validate the mortgage to the bank and make it a first mortgage and make the vendor's mortgage a second mortgage.

Owner builds semi-detached homes in a subdivision.

A part lot control exemption by-law is enacted to permit part lot sales.

The by-law has a 2 year expiry date.

Owner sells a unit after the expiry date of the by-law while owning abutting land.

The transfer to the purchaser is invalid.

A validation certificate would validate the transfer to the purchaser.

A validation certificate has no prospective benefit. It just corrects a *Planning Act* breach which has already occurred. In the first example, parcels A and B are still merged and the owner cannot deal with A or B separately after the validation certificate has been issued. A validation certificate is not a consent and does not get the benefit of Section 50(12). As a result, you need not worry about whether you are creating new lots or parcels. You just have to be satisfied with the lot that is to be validated and that the lot is justifiable from a planning perspective.

## **Section 57 and its Background**

Section 57 of the *Planning Act* provides an explicit mechanism for resolving subdivision control contraventions.

Section 57 provides as follows:

57. (1) A council authorized to give a consent under section 53, other than a council authorized to give a consent pursuant to an order under section 4, may issue a certificate of validation in respect of land described in the certificate, providing that the contravention of section 50 or a predecessor of it or of a by-law passed under a predecessor of section 50 or of an order made under clause 27 (1) (b), as it read on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor of it does not have and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in such land.

(2) A certificate of validation under subsection (1) or an order of the Minister under subsection (3) does not affect the rights acquired by any person from a judgment or order of any court given or made on or before the day on which the certificate is issued or order is made.

(3) If the Minister has authority to give consents under section 53, the Minister may by order exercise the powers conferred upon a council by subsection (1) in respect of land in a territorial district.

(4) No order shall be made by the Minister under subsection (1) in respect of land situate in a local municipality unless the council of the local municipality in which the land is situate has by by-law requested the Minister to make such order, and the council has the power to pass that by-law.

(5) A council may, as a condition to the passage of a by-law under subsection (4), impose such conditions in respect of any land described in the by-law as it considers appropriate.

(6) In considering whether to issue a certificate under subsection (1), regard shall be had to the prescribed criteria.

(7) No certificate shall be issued by a council under subsection (1) unless,

(a) the land described in the certificate conforms with the prescribed criteria; or

(b) the Minister, by order, has exempted that land from the criteria.

(8) A council or the Minister may, as a condition to issuing a certificate of validation or order, impose such conditions in respect of any land described in the certificate or order as it considers appropriate

(9) Nothing in this section derogates from the power a council or the Minister has to grant consents referred to in section 53.

### **Understanding Section 57: What is the jurisdiction? Who can apply?**

According to subs. (1), it is the council's certificate that retroactively cures all prior contraventions of the subdivision control provisions of the Act. The language of the subsection follows the language of the 1967 general curative amendment as well as subs. (14) and almost identically, subs. (22) of the Act. Based on the judicial interpretation of these other subsections, there is no doubt that the certificate cures all prior contraventions of the Act involving the land described in the certificate.

Since the certificate issued by the council corrects the title, there is no document to stamp and no transaction to complete. There is no time limit in which to do anything since documents that gave rise to the transaction that breached the Act have already been registered and the transaction has long ago occurred. The validation certificate cures what has occurred; it has no effect on what might happen in the future.

Section 57 contains no indication as to who may apply for the certificate and, therefore, one assumes that anyone with sufficient interest can apply. It is very different from the consent provisions of section 53 which requires an "owner" to apply for consent. With validations and given their purpose, it is not logical to require the last legal owner to apply since such person would not need a certificate to cure title and would more properly proceed by way of an application for a consent to convey. In the case of *Re Victoria and Grey Trust Co. and Carobara*

*Financial Ltd.*,<sup>3</sup> it was the mortgagee who applied for a Ministerial order (under the previous procedure) in order that a mortgage which was given in contravention of the Act would in fact become effective to pass an interest in the land.

Subsection (2) of s. 57 does provide an exception to the effect of the certificate. The certificate cannot affect "the rights acquired by any person from a judgment or order of any court, given or made on or before the day on which the certificate is issued." A similar qualification appears in the other curative subsections of Section 50: subss. (14), (22) and in the 1967 curative amendment. This provision is a legal question regarding priorities in the land and is not a planning issue.

This phrase was considered in the *Victoria and Grey Trust* case where execution creditors whose executions were filed when the mortgage in question was in breach of the Act, attempted to assert that they had priority over the cured mortgage by reason of the language of the subsection. The court held that the right in question in the Act must be acquired from the type of judgment or order which would allow a certificate of pending litigation to be registered against the lands. In other words, the order in question must be one relating to the specific lands, the title to which is now in question. In *Victoria and Grey Trust*, the rights at issue had merely arisen from executions that had been filed against the owner of the lands. The court held that the mortgagee, following its obtaining the validation, took priority over the executions even though the mortgagee would have had no interest in the lands whatsoever without the certificate.

Some validations may be brought to restore fair and proper priority of instruments. Clearly, with validation, all parties having or acquiring an interest in land are returned to their position of priority based on the date their interest in the land actually arose, as if there had never been a violation of the Act. *Royal Bank v. Coldstream Heights Development Inc.* was contested by Revenue Canada and involved the same issue. It was an application brought pursuant to both Rule 14.05 and the *Vendors and Purchasers Act* and should put to rest any doubt that execution creditors do not enjoy any special priority.

Under the present procedure, the application is submitted to the council or committee authorized to give consents under Section 53. This allows the same body with authority to create new parcels of land to confirm the legality of existing parcels of land that might otherwise have been invalidly created or, if validly created, might include a document that contravened the *Planning Act* because of some other technical breach. The former procedure that required local and then Ministerial approval for validation (a procedure that was cumbersome, a duplication of time and effort and totally redundant) was eliminated in 1993.

However, the council is not free to consider a validation application in the same manner and with the same criteria as consent applications, since under Section 57(7) it must ensure that the land conforms with "prescribed criteria". The prescribed criteria are set out in Ontario Regulations 144/95 and provide as follows:

1. (1) In considering whether to issue a certificate under section 57 of the Act, council shall have regard to the matters described under subsection 51(24) of the Act.

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<sup>3</sup> (1981) 19 R.P.R. 213 (Ont. Co. Ct.). The mortgagee also brought the application in *Royal Bank v. Coldstream Heights Development Inc.* (September 19, 1994), Pitt J. (Ont. Wkly. Ct.)

(2) No certificate under section 57 of the Act shall be issued by a council unless the certificate conforms with,

- (a) any official plan in effect in the municipality;
- (b) the zoning by-law of the municipality, if any, and
- (c) any Minister's zoning order under clause 47(1) of the Act.

Subsection (1) is reasonable (although probably irrelevant to validation applications). The council is required to have regard to matters of health, safety, convenience and welfare of the present and future inhabitants of the local municipality and to certain itemized considerations. However, the council is required to have 'regard' to them and therefore has discretion to ignore them or some of them where appropriate. Subsection (2), however, demands that the land described in the certificate conform to the official plan and the zoning by-law of the municipality. Subsection (7) of Section 57 similarly prohibits the issuance of a certificate unless the land conforms with the prescribed criteria. These prescribed criteria are a serious impediment to bringing validation applications.

This limitation of the discretion of the council is, in my view, unnecessary and probably does not reflect the types of validation applications that are typically made. A validation certificate is necessary either to validate a title (i.e. the *de facto* owner does not have good title because of a prior *Planning Act* contravention that created the parcel) or to validate a contravening document in what is otherwise a good title. In the latter situation, typically, an owner has given a mortgage on a legal parcel of land while owning abutting land. The owner's title is good but the mortgage contravenes and needs to be legalized by a validation certificate. In either case, the property may, because of long-standing and continuous use, not conform to the official plan or to the current zoning by-laws. In neither case can a validation certificate be obtained from the local council but, instead, an application to the Minister is required or some other procedure employed.

Ironically, it seems that the Ministry, which puts so much faith in the ability of the delegated councils to create new parcels of land using their best judgment and a consideration of all planning issues, has seen fit not to permit the same councils to confirm the validity of titles and interests in land that already exist unless the land conforms to the municipality's official plan and zoning by-laws, two criteria that the councils can consider but ignore in appropriate circumstances, when creating new parcels by granting consents.

If a property cannot be validated because of the above impediment, the owner can apply for consent in order to achieve the same result as validation. Under s. 50(14), where land is conveyed with consent, any prior contravention of the *Planning Act* is also retroactively cured. However, the procedure for consents is much more cumbersome than that for validations.

Section 54 of the *Planning Act* sets out who has authority to give consents. Generally councils have the authority and can then delegate that authority to committees, individuals and titled positions. The delegated council with authority to grant validation certificates is governed by subs. 54(2.2) of the Act.

- (2.1) If council has delegated its authority to give consents under subsection (1), (1.1), (2), (2.3), (4) or (5), that delegation shall be deemed to include the authority



to give approvals under subsection 50 (18) and to issue certificates of validation under section 57 in respect of land situate in the lower-tier municipality.

(2.2) Section 53 does not apply in the exercise of authority under subsection (2.1) to give approvals under subsection 50 (18) or to issue certificates of validation.

**What should the committee consider in making a validation decision?**

There are a number of practical factors that one must consider in reviewing a validation application. First, a committee must remember that they are fixing a mistake that has already occurred. While good planning may be a factor, fairness is also a factor. People have relied on and assumed a particular transaction was in compliance with the *Planning Act*. There is an innocent owner and/or an innocent lender who has no legal interest in land because of the *Planning Act* contravention. But is there a planning problem with the contravention? Often, the mistake occurred inadvertently: a parcel of land was omitted from a legal description, or the error occurred as a timing issue: one parcel should have been conveyed before the other and the order of transactions should have been reversed. Often, the application will make no sense for example where a severance occurred but the wrong parcel was dealt with or stamped. The errors are often legal in nature and do not involve a breach of planning principles.

Second, a committee should concern whether validating title constitutes a breach of good or reasonable planning. In many cases, the parcel of land already exists as a separate parcel of land. It has been separately assessed, or serviced and used as a separate parcel of land and the issue is one of just fixing title or ownership or the validity of a mortgage. Sometimes, the parcel might not have justified a severance, for example where it is not consistent with Provincial policies for land severances or local guidelines regarding agricultural properties. Again, one must consider at least that the validation is recognizing the validity of something that was done some time before and must consider in the circumstances fairness of result as well as planning issues.

Committees should also understand that validations often require speedy response. A transaction may depend on clearing up the title by validation. Again, because of the different rules for validation, there is an opportunity for a committee to make a decision without the usual notice or circulation or other procedural rules applicable to consent applications. In my experience, I have obtained validation certificates in a matter of 48 hours from the time of application and without attendance at hearings. With validations, there is an opportunity for a practical approach to solving title problems.

**What is the application procedure: Consent procedures do not apply to validations**

It is very important to appreciate that if a council or committee has the authority to give validations certificates, then section 53 of the *Planning Act* does not apply. That section includes all of the notice and appeal procedures that apply to consents and they are clearly not applicable to validations. Section 53 only applies to consents.

Section 45 of the *Planning Act* governs the procedural rules for Committees of Adjustment. If a Committee of Adjustment has the delegated authority to issue validation certificates, according to Section 54(6.1), subsection 45(8) of the Act applies to committees considering validation applications but subsections 45(4-7) and (9-20) (the rules relating to notices, etc.) do not. In

addition, Regulation 197/96 does not apply to validations since it applies only to consent applications.

(6.1) Where, under subsection (2) or (5), a committee of adjustment has the authority to give approvals under subsection 50 (18) and the authority to issue certificates of validation under section 57, subsection 45 (8) applies in the exercise of that authority, but subsections 45 (4) to (7) and (9) to (20) do not apply.

As a result of these provisions, the typical rules applicable to applications for consent do not apply since section 53, section 45 and regulation 197/96 of the Act do not apply to councils or committees that issue certificates of validation. In particular, no public notice is required, there is no need to circulate to specified agencies, there is no need to post signs and there is no right to appeal. The required contents of an application for consent are not applicable. As noted above, all of those procedures are mandated by Regulation 197/96 and apply only to consents. There is no prescribed form of application and local councils can establish their own procedures.

Many committees use the consent application form for validations but it really is not applicable. There is no requirement for the authorizations and the affidavits often seen on such applications (since they are mandated by the regulations for the form of application for consent under Regulation 197/96.) There is no retained and abutting land. There is no requirement for an "owner" since the act does not require an owner to apply. Councils, committees and secretary-treasurer should recognize that validations are not consents and are governed by different procedures and concerns.

Committees granting validation can impose conditions. In my experience, conditions are rarely, if ever, imposed. The typical consent conditions are not applicable. For example, since no new lot is being created, but the transaction has already occurred and been registered, there is no need for a reference plan. A reference plan either already exists or the property already has a valid legal description for land registry purposes. Similarly, since the parcel already exists and is simply suffering from a *Planning Act* contravention, there is no need for the typical payments by municipalities applicable to new lots. Usually, the validated title has already been recognized by the municipality as a separate parcel of land. It may be separately serviced, separately assessed, have a separate use, etc. Secretary-Treasurers should be careful in attaching the standard consent conditions to decisions for validation. They do not apply. Remember that validations are about fixing title to parcels of land that already exist and are not usually about creating new lots.

#### **What does a Validation certificate look like?**

A validation certificate is a very simple form as noted below. It contains a statement of the effect of the validation and a legal description. Note that according to section 57, it is title to the property that is validated, and not any specific instrument. Usually, the purpose of the application is to validate a particular document like a transfer or mortgage that contravened the act but the act itself states that any contravention is deemed not to prevent the conveyance or creation of any interest in land. It is not correct to specify any particular instrument in the certificate.

According to the act, the council issues the certificate in respect of certain land that provides that

the contravention of section 50 or a predecessor of it or of a by-law passed under a predecessor of section 50 or of an order made under clause 27 (1) (b), as it read on the 25th day of June, 1970, of

*The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor of it does not have and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in such land.

Those are the words to be included in a certificate of validation.

A lawyer should register it on title so that there is public notice that the title has been validated. However, there is no time limit in which to do so since the certificate is valid from the moment it is issued and whether it is registered or not. Again, unlike consents, the validation does not depend on any subsequent transaction occurring and a condition requiring registration or otherwise within a certain period of time is not relevant and does not affect validity. It is unlike a consent that is dependent on a subsequent transaction occurring.

### **Summary**

Councils and committees must be prepared to deal with validation applications even though they are rare. Many councils, including Land Division Committees and Committees of Adjustment, have never seen them. Committee members (if not some secretary treasurers, and municipal law lawyers) must understand the difference between a validation application and a consent and not treat them the same way. In my experience, some committees want to treat them like consent applications. They often refer validation applications to their municipal lawyers who, frequently, are not familiar with them. It is very important that such committees understand that they have this jurisdiction to issue validations and that the jurisdiction must be exercised with an understanding that validations are not the same as consents, are not governed by the same procedural rules and requirements and have a purpose very different from consents and land severances.

## CERTIFICATE OF VALIDATION

### Section 57 of the *Planning Act*

A contravention of Section 50 or a predecessor of it, or of a by-law passed under a predecessor of Section 50, or an order made under clause 27(1)(b) of the *Planning Act* as it reads on the 25<sup>th</sup> day of June, 1970, being chapter 296 of the Revised Statutes of Ontario, 1960 or a predecessor of it, does not have and shall be deemed never to have had, the effect of preventing the conveyance of, or creation of any interest in the parcel of land described as follows:

[insert legal description of title to be validated]

This Certificate of Validation is issued in accordance with Section 57 of the *Planning Act*, R.S.O. 1990,c.P.13, as amended, and the decision of the Committee of Adjustment [or council] of the                      dated                      2015.

Dated the                      2015

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**TITLE**

Application No. LD



Committee of Adjustment  
City Hall, 5<sup>th</sup> floor, 71 Main Street West  
Hamilton, ON L8P 4Y5  
Phone: 905-546-2424, ext. 4144

**APPLICATION FOR VALIDATION OF TITLE  
Under Section 57 of the *Planning Act*, 1996**

**Office Use Only**

Application No. \_\_\_\_\_

Date Received: \_\_\_\_\_

1. Name of Owner(s) \_\_\_\_\_  
Address \_\_\_\_\_

Telephone Number \_\_\_\_\_ Postal Code \_\_\_\_\_

Name of Owner's solicitor

or authorized agent (if applicable) \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_ Postal Code \_\_\_\_\_

***Please specify to whom all communications should be sent:***

**Owner** ☐ **Solicitor** ☐ **Agent** ☐

2. In whose name is the property registered?  
\_\_\_\_\_

3. When was the property purchased? \_\_\_\_\_

4. LOCATION OF LAND:

Geographic or

Municipality \_\_\_\_\_ Former Township \_\_\_\_\_

Lot(s) No. \_\_\_\_\_ and Concession No. \_\_\_\_\_

Registered Plan No. \_\_\_\_\_ Lot(s) No. \_\_\_\_\_

Reference Plan No. \_\_\_\_\_ Part(s) No. \_\_\_\_\_

Street No. \_\_\_\_\_ Street Name \_\_\_\_\_

5. Description of land:  
Frontage \_\_\_\_\_ Depth \_\_\_\_\_ Area \_\_\_\_\_  
Existing Use \_\_\_\_\_ Proposed Use \_\_\_\_\_

6. Has a building permit been issued? \_\_\_\_\_

7. (a) Has construction commenced? \_\_\_\_\_

(b) Number and type of buildings and structures. (Please indicate those  
buildings or structures to be demolished).

Existing \_\_\_\_\_

Proposed \_\_\_\_\_



8. Are there any existing restrictions affecting the land holding (i.e. covenants, rights-of-way, easements, etc., or any proposed reservations of interest that will affect the subject land?)

Yes ☐

No ☐

If "yes", the details of all such existing restrictions and proposed reservations must be shown on the plan.

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9. Did the previous owner retain any interest in the subject land?

Yes ☐

No ☐

If "yes", please give details.

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10. Do you have any interest in any abutting parcel of land?

Yes ☐

No ☐

If "yes", details must be shown on the plan.

11. Type of road access (specify) \_\_\_\_\_

12. What type of **water supply** is proposed? (Check appropriate box)

Municipally owned and  
operated pipe water supply ☐

Lake ☐  
Well ☐

Other (Specify) \_\_\_\_\_

13. What type of **sewage disposal** is proposed? (Check appropriate box)

Municipally owned and  
operated sanitary sewers ☐

Septic tank ☐  
Pit privy ☐

Other (Specify) \_\_\_\_\_

14. When will water supply and sewage disposal services be available? \_\_\_\_\_

15. (a) Has the owner severed any land from this holding? Yes ☐ No ☐

(b) If the answer to (a) is "Yes", please indicate previous severances on the required sketch and supply the following information for each lot severed.

Grantee's name \_\_\_\_\_

Relationship (if any) to owner \_\_\_\_\_

Use of parcel \_\_\_\_\_ Date parcel created \_\_\_\_\_

16. Why do you consider your title may require validation?

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17. Is the subject parcel located within or adjacent to an Environmentally Sensitive Area? Yes ☐ No ☐

18. Affidavit or sworn declaration

I, \_\_\_\_\_ of the \_\_\_\_\_ of \_\_\_\_\_  
in the \_\_\_\_\_

solemnly declare that all the statements contained in this application are true, and I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of **The Canada Evidence Act**.

DECLARED before me at the	)	
	)	
_____ of _____	)	
	)	
in the _____ of _____	)	
	)	
this ____ day of _____, 20____	)	_____
	)	signature of owner(s), or
	)	authorized solicitor/agent
	)	
	)	
	)	
	)	
	)	
_____	)	
A Commissioner, etc.		

**NOTE:** If this application is signed by an agent or solicitor on behalf of an applicant, the owner's written authorization must accompany the application. If the applicant is a corporation acting without an agent or solicitor, the application must be signed by an officer of the corporation and the corporation's seal (if any) must be affixed.

**APPLICANT'S CHECKLIST**

Have you remembered to attach:

- ☐ 2 copies of the completed application form and a detailed history of why you are applying to have the title validated?  
(Ensure you have a copy for yourself)
- ☐ 2 copies of the prescribed sketch or survey?
- ☐ The required fee? ( **A cheque or money order in the amount of \$455.00 payable to the City of Hamilton**)



TOWN OF RICHMOND HILL  
COMMITTEE OF ADJUSTMENT  
THE PLANNING ACT - SECTION 57  
APPLICATION FOR VALIDATION OF TITLE

FILE NO. \_\_\_\_\_

**PLEASE TYPE OR USE BLACK INK:**

1. (a) Owner(s): \_\_\_\_\_  
(Please Indicate Name(s) *Exactly* as Shown on the Transfer/Deed of Land)

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ Province: \_\_\_\_\_

Postal Code: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

- (b) Authorized Agent (if any): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ Province: \_\_\_\_\_

Postal Code: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

- (c) Please specify to whom all communications should be sent: Owner ☐ Agent ☐

2. Location and Description of Land:

Municipality (City/Town/Township) \_\_\_\_\_

Former Municipality \_\_\_\_\_

Concession No \_\_\_\_\_ Lot(s) \_\_\_\_\_ Registered Plan No \_\_\_\_\_ Lot(s) \_\_\_\_\_

Reference Plan No \_\_\_\_\_ Part(s) \_\_\_\_\_

Name of Street \_\_\_\_\_ Street No \_\_\_\_\_

Frontage \_\_\_\_\_ Depth \_\_\_\_\_ Area \_\_\_\_\_

Existing Use \_\_\_\_\_ Proposed Use \_\_\_\_\_

Number and use of buildings and structures (both existing and proposed) on the land:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. In whose name is the property registered? \_\_\_\_\_

4. When was the property purchased? \_\_\_\_\_

5. Did the previous owner retain any interest in the subject land? Yes ☐ No ☐

If "yes", please give details

\_\_\_\_\_

6. Do you have any interest in any abutting parcel of land? Yes ☐ No ☐

If "yes", please give details \_\_\_\_\_

7. Why do you consider your title may require validation? (use separate page if necessary)

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8. Type of access to subject land:

☐ Provincial Highway      ☐ Regional Road  
☐ Municipal Road      ☐ Other \_\_\_\_\_

9. What type of water supply is proposed? (Check appropriate space)

**TYPE**

Municipally owned and operated piped water supply ☐  
Lake ☐  
Well ☐  
☐ Other (Specify) \_\_\_\_\_

10. What type of sewage disposal? (Check appropriate space)

**TYPE**

Municipally owned and operated sanitary sewage system ☐  
Septic tank ☐  
☐ Other (Specify) \_\_\_\_\_

11. When will above noted water supply and sewage disposal services be available?

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12. What is the correct current designation of the subject land in any applicable official plan and zoning by-law?

(a) Local Municipal Official Plan Designation \_\_\_\_\_  
(b) Local Municipal Zoning By-law Designation \_\_\_\_\_  
(c) Does the parcel comply with these documents?      Yes ☐      No ☐

- 13.(a) Has the owner previously severed any land from this holding?      Yes ☐      No ☐

- (b) If "Yes", please indicate previous severances on the required sketch and supply the following information for each lot severed (attach schedule if required):

Grantee's (Purchaser's) name \_\_\_\_\_  
Relationship (if any) to owner \_\_\_\_\_  
Use of parcel \_\_\_\_\_  
Date parcel created \_\_\_\_\_

**NOTES:**

1. If this application is signed by an agent or solicitor on behalf of an applicant, the owner's written authorization must accompany the application. If the applicant is a corporation acting without agent or solicitor, the application must be signed by an officer of the corporation and the corporation's seal (if any) must be affixed.
2. The Committee of Adjustment requires that each application be accompanied by 1 copy of a preliminary drawing showing:
  - (a) abutting land owned by the applicant, its boundaries and dimensions;
  - (b) the distance between the applicant's land and the nearest township lot line or appropriate landmark (e.g. bridge, railway crossing, etc.);

- (c) the parcel of land that is the subject of the application, its boundaries, dimensions and area;
- (d) the location of all land previously severed from this holding, if any;
- (e) the approximate location of all natural and artificial features on the subject land (e.g. buildings, railways, ~~highways~~, watercourses, drainage ditches, banks, slopes swamps, wooded areas, wells and septic tanks) and the location of any of these features on adjacent lands which may affect the application;
- (f) the location, width and names of all road allowances, rights-of-way, streets or highways within or abutting the property, indicating whether they are public travelled roads, private roads, rights-of-way or unopened road allowances; and
- (g) the location and nature of any restrictive covenant or easement affecting the subject land.

It is required that one copy of the application form be filed together with the applicable fee in cash, money order or by cheque made payable to the **Town of Richmond Hill**.

For the purposes of this application, the Owner/Applicant/Agent grants permission to the members of the Committee of Adjustment, Town of Richmond Hill staff and their agents to enter upon the said property for inspection purposes.

### **FREEDOM OF INFORMATION**

For the purposes of the Freedom of Information and Protection of Privacy Act, I authorize and consent to the use by or the disclosure to any person or public body any information that is collected under the authority of the Planning Act for the purposes of processing this application.

\_\_\_\_\_  
Owner/Applicant/Agent Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner/Applicant/Agent Signature

\_\_\_\_\_  
Date

### **DECLARATION**

I/we \_\_\_\_\_ of \_\_\_\_\_ solemnly declare that:

all of the above statements and the statements contained in all of the exhibits transmitted herewith are true and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me at the Town of

**TO BE SIGNED IN THE PRESENCE OF A  
COMMISSIONER FOR TAKING AFFIDAVITS**

Richmond Hill in the Region of York

this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_

\_\_\_\_\_  
Owner/Applicant/Agent Signature

\_\_\_\_\_  
A Commissioner, etc.

\_\_\_\_\_  
Owner/Applicant/Agent Signature

### **AUTHORIZATION**

If the applicant is not the owner of the land that is the subject of this application, the authorization set out below must be completed by the owner.

#### **AUTHORIZATION OF OWNER**

I/we \_\_\_\_\_ am/are the owner(s) of the land that is the subject of this consent application. I/we authorize \_\_\_\_\_ to make this application on my/our behalf and to provide any of my/our personal information necessary for the processing of this application.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**INFORMATION PROVIDED IN THIS APPLICATION WILL BECOME PART OF A PUBLIC RECORD**