

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: March 03, 2020

CASE NO(S): PL190117
PL190118

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: 1985632 Ontario Inc.
Subject: Application to amend Zoning By-law No. (2005-005)
- Refusal of Application by Township of Middlesex
Centre
Existing Zoning: Agricultural (A1-19)
Proposed Zoning: Hamlet Residential (HR1)
Purpose: To permit an application to sever a portion of a farm
to create 5 lots
Property Address/Description: 15353 Plover Mills Road
Municipality: Township of Middlesex Centre
Municipality File No.: ZBA 25/2018
LPAT Case No.: PL190117
LPAT File No.: PL190117
LPAT Case Name: 1985632 Ontario Inc. v. Middlesex Centre
(Township)

PROCEEDING COMMENCED UNDER subsection 53(19) of the *Planning Act*,
R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: 1985632 Ontario Inc.
Subject: Consent
Property Address/Description: 15353 Plover Mills Rd
Municipality: Township of Middlesex Centre
Municipal File No.: B-22/18
LPAT Case No.: PL190118
LPAT File No.: PL190118
LPAT Case Name: 1985632 Ontario Inc. v. Middlesex

Centre (Township)

PROCEEDING COMMENCED UNDER subsection 53(19) of the *Planning Act*,
R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	1985632 Ontario Inc.
Subject:	Consent
Property Address/Description:	15353 Plover Mills Rd
Municipality:	Township of Middlesex Centre
Municipal File No.:	B-23/18
LPAT Case No.:	PL190118
LPAT File No.:	PL190119

PROCEEDING COMMENCED UNDER subsection 53(19) of the *Planning Act*,
R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	1985632 Ontario Inc.
Subject:	Consent
Property Address/Description:	15353 Plover Mills Rd
Municipality:	Township of Middlesex Centre
Municipal File No.:	B-24/18
LPAT Case No.:	PL190118
LPAT File No.:	PL190120

Heard: February 14, 2020 by telephone conference call

APPEARANCES:**Parties****Counsel**

Municipality of Middlesex Centre

P. Lombardi

1985632 Ontario Inc.
("Applicant/Appellant")

B. Bain

**MEMORANDUM OF ORAL DECISION DELIVERED BY G.C.P. BISHOP ON
FEBRUARY 14, 2020 AND ORDER OF THE TRIBUNAL**

[1] The lands subject to this hearing is located at 15353 Plover Mills Road in the Municipality of Middlesex Centre ("Municipality").

[2] The Applicant/Appellant applied for the creation of five new residential lots through the Consent process together with an accompanying Zoning By-law Amendment to accommodate the change in use on the proposed severed lands.

[3] Both the Consent applications and the Zoning application were refused by the Council for the Municipality, leading to the appeals on these matters.

[4] The Parties informed the Local Planning Appeal Tribunal ("Tribunal") that a settlement had been reached and the presentation of this settlement was the topic of this Telephone Conference Call.

[5] The Tribunal accepted the unchallenged affidavit of Laverne Kirkness, a Registered Professional Planner who, in his affidavit, stated that the proposal is consistent with the Provincial Policy Statement, 2014, conforms to the County of Middlesex Official Plan, conforms to the Middlesex Centre Official Plan, appropriate for the HR1 Zone for the proposed rural residential lots. Mr. Kirkness also stated that the proposed Zoning By-law Amendment in front of the Tribunal will conform to all relevant provisions of the Municipality's Zoning By-law No. 2005-05, the settlement agreement represents sound land use planning and is in the public interest.

ORDER

[6] With respect to severance applications B-22/18, B-23/18 and B-24/18 the Tribunal allows the appeal and grants provisional consent subject to the conditions listed in Schedule "A" of the settlement agreement and appended to this Decision as Attachment 1. The Applicant/Appellant will have one year from the time of the date on the written decision to meet all of the conditions of the provisional consent.

[7] With respect to the Zoning By-law Amendment the Tribunal allows the appeal and approves Zoning By-law in the manner set out in Schedule "B" of the settlement agreement and appended to this Decision as Attachment 2.

[8] The Tribunal so Orders.

"G.C.P. Bishop"

G.C.P. BISHOP
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Tribunals Ontario - Environment and Land Division
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248



Staff Report

Report No.: PLA-11-2019

Meeting Date: February 20th, 2019

Submitted by: Kelly Henderson Planner

Subject: Application for Consent (B-22/18-B-24/18) and Zoning By-law Amendment (ZBA 25 2018); Part Lot 8, Concession 11; 1985632 Ontario Limited

Recommendation:

THAT Consent Applications B-22/18-B-24/18, filed by Kirkness Consulting Inc., on behalf of 1985632 Ontario Limited in order to sever five residential lots with each lot having a frontage of 29.7 metres (97.44 feet) and a depth of approximately 91.4 metres (299.87 feet), and an area of approximately 0.27 hectares (0.67 acres) from a farm holding with a lot area of approximately 30.5 hectares (75.4 acres), on a property legally described as Part Lot 8, Concession 11 (geographic Township of London), Municipality of Middlesex Centre; be GRANTED

FURTHER THAT Consent B-22/18-B-24/18 be subject to the following conditions:

1. That the Certificate of Consent under Section 53(42) of the *Planning Act* shall be given within one year of the date of the notice of the decision. The request for the Certificate of Consent shall be accompanied by a written submission that details how each of the conditions of severance has been fulfilled.
2. That the fee for the Certificate of Consent be paid in accordance with the Municipality's Fees and Charges By-law.
3. That a draft reference plan be prepared by an Ontario Land Surveyor for the purposes of facilitating the transaction of Consent B-22/18-B-24/18 and that this plan be approved by the Municipality prior to being deposited with the Land Registry Office.
4. That the Owners' solicitor provide a Transfer in Preparation to the Municipality, together with a deposited reference plan and a Schedule describing the land to be transferred, for the purposes of the issuance of a Certificate of Consent.

5. That the Owners' solicitor submit an undertaking in a form satisfactory to the Municipality to register an electronic transfer of title consistent with the Consent decision.
6. That a Zoning By-law Amendment that recognizes the residential uses of the severed lots of Consents B-22/18-B-24/18 be in full force and effect and that a Zoning By-law Amendment that recognizes the reduce lot area of the retained lot of consents B-22/18-B-24/18 be in full force and effect.
7. That, if necessary, a revised assessment scheduled in accordance with the Drainage Act, as amended, be commissioned and paid for by the Owners.
8. That the transfers for the Consents B-22/18-B-24/18 be registered concurrently by the Owner's solicitor.
9. That any outstanding property taxes for the severed and retained lots of Consent B-22/18-B-24/18 be paid in full.
10. That the Owner enter into a Development Agreement with the Municipality, and that the Agreement be registered against the title of the subject land, to address among other matters: all financial, legal, planning and engineering matters including but not limited to payment of the Municipality's engineering, legal and planning review costs, entrance locations and construction, works within the road allowance, lot grading and drainage, building envelopes, septic systems and 100% contingency areas and potable wells, all to the satisfaction of the Municipality.
11. Upon fulfillment of condition #10, the owner shall install the private wells and driveways for each of the severed lots of Consents B-22/18-B-24/18 and that this be done by obtaining all the appropriate permits, paying all of the appropriate fees and be to the satisfaction of the County of Middlesex and Middlesex Centre.
12. That the Owner provide a lot grading plan showing potential building, septic, contingency and well locations for all properties to the satisfaction of the Municipality.
13. That the owner retain a qualified professional to undertake a soils investigation to confirm independent sewage disposal systems are capable of supporting the proposed residential development based on existing site conditions and surrounding uses.

14. That the Owners provide \$1,000 cash-in-lieu of parkland dedication for each of the severed lots of Consents B-22/18-B-24/18 in accordance with the Municipality's Fees and Charges By-law.
15. That the Owner complete a Storm Water Management Report to the satisfaction of the Municipality and the Conservation Authority.
16. That the Owner complete a Groundwater Impact Assessment Report to the satisfaction of the Municipality.
17. That the Owners provide a road widening for the purposes of road widening to a distance of 18.0 m from the centerline of construction along both County Road 16 (Plover Mills Road) and County Road 23 (Highbury Ave N) across the severed and retained parcels if the right of way is not already to that width.

AND FURTHER THAT the reasons for granting Consent application B-22/18-B-24/18 include:

- The proposal is consistent with the Provincial Policy Statement;
- The proposal conforms to the County of Middlesex Official Plan and the Middlesex Centre Official Plan; and
- The proposal complies with the Middlesex Centre Comprehensive Zoning By-law.

AND FURTHER THAT the Zoning By-law Amendment application, filed by Kirkness Consulting Inc. on behalf of 1985632 Ontario Limited for the severed and retained lands of Consent B-22/18-B-24/18, be **APPROVED**.

Purpose:

The purpose of this report is to provide Council with a recommendation regarding a proposal to create five new residential lots along Plover Mills Road (County Road 16) and re-zone the lots to be severed to a site specific Hamlet Residential zone and the retained parcel to amend the site-specific Agricultural (A1) zone.

A location map is included as Attachment 1.

Background:

SCHEDULE "B"

ZONING BYLAW AMENDMENT No. _____

Whereas the Municipality and the land owner and applicant have entered into terms of settlement which enable the approval of consents for land severances and a rezoning according to LPAT case name PL190118.

Whereas the Comprehensive Zoning Bylaw 2005-005 of the Municipality of Middlesex Centre is amended as follows:

1. The zoning of the lands described on Schedule A attached is rezoned from AGRICULTUAL A1-19 to HAMLET RESIDENTIAL HR1, comprising an area for 5 residential lots;
2. The zoning of the lands described on Schedule A attached is rezoned from AGRICULTUAL A1-19 to AGRICULTUAL A1-*(## special provision)* that would permit a reduced Lot Area minimum to 29 ha.

An explanation of the Purpose and Effect of the Bylaw, and a description of the lands to which the Bylaw applies, is attached.

Dated on this ____ day of February 2020

Signing authority _____

Print _____

Signing authority _____

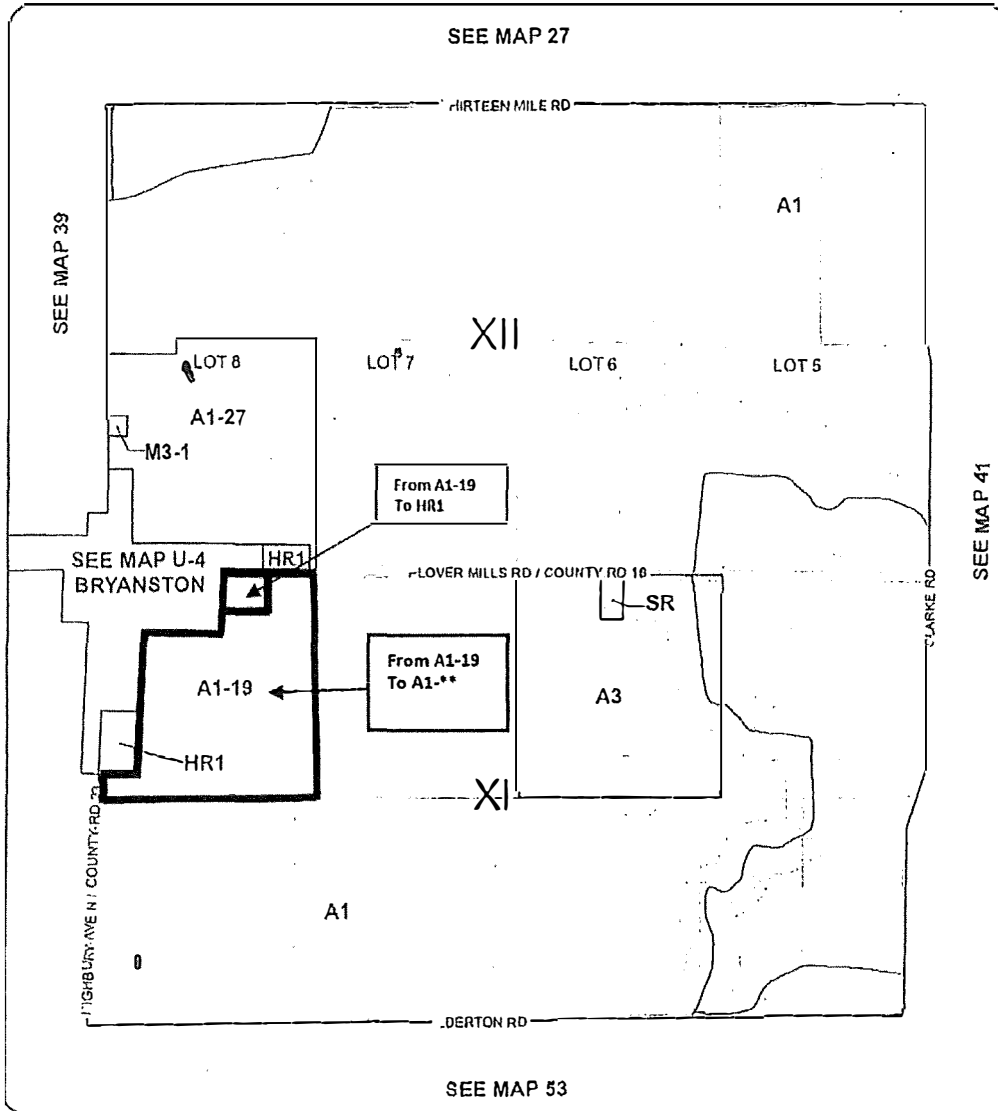
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Schedule A of Bylaw Amendment No. _____



MUNICIPALITY OF MIDDLESEX CENTRE

ZONING BY-LAW #2005-005



SCHEDULE A
KEY MAP: 40

NOTE: Schedules should be read in conjunction with applicable provisions of the Zoning By-Law.

