

THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON

AGENDA

PUBLIC MEETING

ZONING BY-LAW AMENDMENT 30 -
117 MERSEA ROAD 3 - MOTYL

MONDAY, MARCH 14, 2011
COMMENCING AT 7:00 P.M.
IN THE COUNCIL CHAMBERS



ITEMS FOR CONSIDERATION:

1. Notice of Public Meeting
Pages 2-3
2. Report PLA 04/11 dated January 18, 2011 re: Zoning By-law Amendment Request Proposed Agricultural Zoning ZBA 30 - 117 Mersea Road 3 and Essex Road 31 - Motyl (Previously considered at the February 21, 2011 Council Meeting)
Pages 4-+
3. Comments received from Essex Region Conservation Authority dated February 24, 2011
Page ,

THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON
NOTICE OF PUBLIC MEETING
ZONING BY-LAW AMENDMENT
ZBA 30 - 117 Mersea Road 3

TAKE NOTICE that the Council of the Corporation of the Municipality of Leamington will hold a public meeting concerning a proposed zoning by-law amendment under the provisions of the Planning Act, R.S.O. 1990 on **Monday, March 14th, 2011 at 7:00 pm** in the Council Chambers at the Municipal Building.

The subject property is described as Concession 3 South Part Lot 1 and locally known as 117 Mersea Road 3 in the former Township of Mersea, now a portion of the Municipality of Leamington (see key map).

The subject property is designated Agricultural on Schedule "A-6A" of the Leamington OP, as approved on February 5, 2008. The subject property is currently zoned Agricultural General Zone (A1) on Map 28 in Zoning By-law #890-09, as approved on January 12, 2009. The property owner requested that the Committee of Adjustment, at their meeting of January 26, 2010, consider to sever a 33.53m x 54.83m (0.182 ha) residential lot for technical reasons and retain an 11.938 ha farm parcel. Consent may be granted to sever for technical reasons. One of the conditions of application is that a successful application for zoning by-law amendment is obtained to change the zone of the severed lands Agricultural General Zone (A1) to Agricultural Residential Zone (A5).

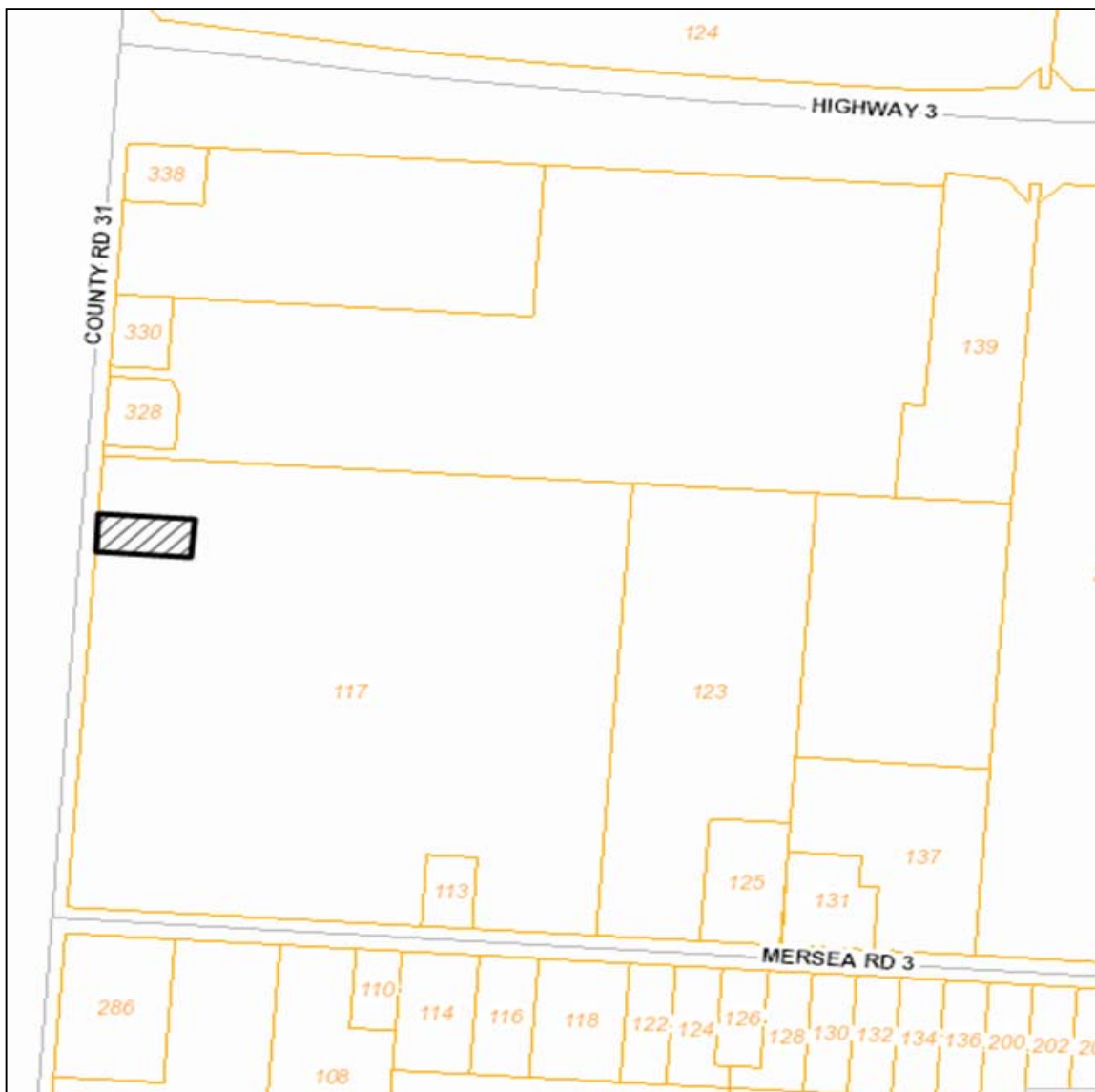
ANY PERSON may attend the public meeting and/or make written or verbal representation either in support of or in opposition to the proposed zoning by-law amendment.

If a person or public body that files an appeal to a decision of the Municipality of Leamington in respect of the proposed zoning by-law amendment does not make oral submission at a public meeting or make written submissions to the Municipality before the proposed by-law is adopted, the Ontario Municipal Board may dismiss all or part of the appeal.

ADDITIONAL INFORMATION relating to this matter is available for review at the Municipal Office for the Corporation of the Municipality of Leamington, 38 Erie Street North, during regular office hours. Please contact Tracey Pillon-Abbs, Manager of Planning Services, for further information.

DATED at the Municipality of Leamington this 22nd day of February 2011.

BRIAN R. SWEET, CLERK
MUNICIPALITY OF LEAMINGTON
38 ERIE STREET NORTH
LEAMINGTON, ONTARIO N8H 2Z3
TELEPHONE: (519) 326-5761



REPORT

TO: MAYOR AND MEMBERS OF COUNCIL

FROM: TRACEY PILLON-ABBS, MANAGER OF PLANNING SERVICES

DATE: JANUARY 18, 2011

SUBJECT: ZONING BY-LAW AMENDMENT REQUEST
 PROPOSED AGRICULTURAL ZONING
 ZBA 30 - 117 MERSEA ROAD 3 AND ESSEX ROAD 31
 (DAVID AND RICHARD MOTYL)

AIM:

To report upon a request to schedule the required public meeting to consider a proposed zoning by-law amendment for property located on 117 Mersea Road 3.

BACKGROUND:

Purpose of Application:

Staff has received an application for re-zoning by the owners of the property, to amend the agricultural zoning for the subject lands as part of a condition of approval for consent application (B/06/10) on the subject lands.

Property Description:

The subject property is described as Concession 3 South Part Lot 1 and locally known as 117 Mersea Road 3 in the former Township of Mersea, now a portion of the Municipality of Leamington (see key map).

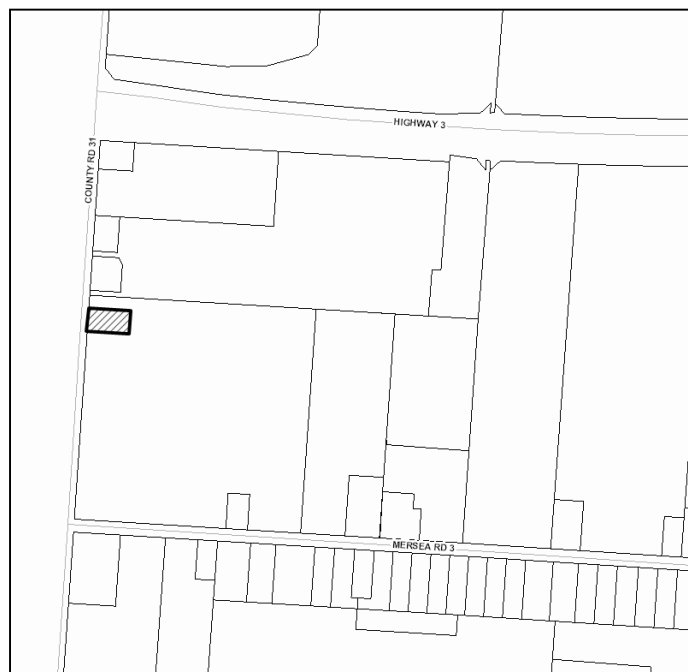
Currently, the subject property is vacant and is proposed to be used as a residential lot.

This application is technical in nature as the residential lot was originally created in the sixties, but merged back onto the farm. The farm will maintain frontage on Mersea Road 3 and the residential lot will have frontage on Essex Road 31. There are agricultural uses abutting the subject lands.

COMMENTS AND ANALYSIS:

Provincial Policy Statement (PPS):

According to section 2.3.3.1 of the PPS, in prime agricultural areas, permitted uses and activities include agricultural uses, secondary uses and agriculture-related uses.



County of Essex Official Plan 2005 (OP):

The subject land is designated within the County of Essex Agricultural Area on Schedule "A" in the County OP. The goal is to protect prime agricultural areas for agricultural purposes to ensure the continued long term availability of this resource;

Leamington Official Plan, 2008 (OP):

The subject property is designated Agricultural on Schedule "A-6A" the Leamington OP. The goal is to preserve prime agricultural land for agricultural purposes and to restrict the type and amount of non-farm development.

Leamington Zoning:

The subject property is currently zoned Agricultural General Zone (A1) on Map 28 in Zoning By-law #890-09.

The property owner requested that the Committee of Adjustment, at their meeting of January 26, 2010, consider to sever a 33.53m x 54.83m (0.182 ha) residential lot for technical reasons and retain an 11.938 ha farm parcel.

Legal or technical severances may be permitted provided that:

1. both parcels (severed and retained) comply with the provisions of the implementing Zoning By-law. **As submitted, the proposed severed lot will not comply with the minimum lot area of the Agricultural General Farm (A1) Zone. However, the severed parcel will comply if re-zoned to the Agricultural Residential Zone (A5).**
2. the lot adjustment does not result in the creation of a 'residential lot' that would not have otherwise been allowed. **No new residential lot is being created as the deeds were stamped however never registered.**

Therefore, the application can be supported on condition that;

1. a favourable rezoning amendment shall be processed to change the zoning classification of the severed lands from Agricultural General Zone (A1) to Agricultural Residential Zone (A5).

CONSULTATION:

Administration has completed their review of the proposed application as part of the pre-consultation process.

As set out in the Planning Act, a complete application includes any 'prescribed information' identified in the regulations of the Planning Act and any 'additional information' required by the municipality, as identified in its official plan.

Due to the nature of the proposed zoning change it is Administration's position that additional information is not required.

CONCLUSION:

As part of the new Bill 51 regulations of the Planning Act, pre-consultation was used to review all the 'prescribed information' and any 'additional information' required in order to consider the application complete. Prior to deeming the application complete, Section 34 (10.3) of the Act sets out that Council must receive all the information or material it needs to make a decision.

Administration suggests that this matter should now proceed to a public meeting. The date for the required public meeting is requested to be scheduled for **Monday, March 14, 2011 at 7:00 pm.**

Notice of public meeting will be circulated to all commenting agencies, municipal departments and abutting landowners within 120 m (400 ft) of the subject property. Notice will also be posted on site. As part of the new Bill 51, all information will be made available to the public and commenting agencies.

A report by Administration will not be presented to Council after the public meeting, unless there are concerns raised at the public meeting. It is requested that Council consider the amending by-law for the zoning by-law amendment approval the same night as the public meeting.

Therefore, it is administration's opinion that;

- i) The application is consistent with the policy statements issued under subsection 3 (1) of the Planning Act.
- ii) The application conforms to or does not conflict with any applicable provincial plan or plans.
- iii) The development proposed is in keeping with the overall goals and policies of the Official Plan.
- iv) The proposed amendment does meet the criteria used when considering applications to amend the zoning by-law.

Once a decision for Zoning By-Law amendment has been made and notices sent out, there would be an appeal period in the case that there are any objections to the Ontario Municipal Board (OMB).

As set out under Bill 51 of the Planning Act, the OMB is required not only to have regard to Council's decision, but the basis on which the decision is made. In order to ensure that the OMB has regard to Council's decision, Council should be able to demonstrate that its decision was fully supported by relevant information and that the information was considered by Council.

RECOMMENDATION:

THAT Council declare that the application was reviewed and deemed to be complete pursuant to the requirements of the *Planning Act* to consider a zoning by-law amendment for property located at Concession 3 South Part Lot 1 and locally known as 117 Mersea Road 3 as part of a condition for B/06/10 to change the zone from Agricultural General Zone (A1) to Agricultural Residential Zone (A5), as outlined in Report PLA 04/11;

AND that Administration be directed to schedule the required public meeting for Monday, March 14, 2011 at 7:00 pm.

AND further, if no concerns are raised at the public meeting, that the Clerk be directed to forward the amending by-law for the zoning by-law amendment approval to Council for its consideration.

Respectfully submitted,

Tracey Pillon-Abbs,
Manager of Planning Services

Douglas E. Morrish,
Director of Development Services

/tpa



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February 24, 2011

Mr. Brian Sweet, Clerk
Municipality of Leamington
38 Erie St. N.
Leamington ON N8H 2Z3

Dear Mr. Sweet:

RE: Notice of Public Meeting to Consider Zoning By-Law Amendment
(ZBA-30-2011) - Lot 1, Conc. 3; 117 Mersea Rd 3;
ARN: 370665000005200; PIN: 750950064;
Applicant: Motyl Richard;

The following is provided for your information and consideration as a result of our review of the above referenced Notice of Public Meeting to Consider Zoning By-Law Amendment (ZBA-30-2011).

For the owner's information, we note that the above noted lands are **not** subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulations under the *Conservation Authorities Act*, (Ontario Regulation No. 158/06).

We note that we have reviewed the proposal and have no concerns relating to stormwater management.

We note that the subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance under the Provincial Policy Statement (PPS).

Based on our review, we have no objections to the application.

If you should have any questions or require any additional information, please do not hesitate to contact the ERCA office by phone at (519) 776-5209 or by fax at (519) 776-8688.

Thank you.

Sincerely,

Rebecca Belanger, MCIP, RPP
Conservation Planner