

THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON

AGENDA

PUBLIC MEETING



ZONING BY-LAW AMENDMENT 31
- 601 HIGHWAY 77 AND N/S
MERSEA ROAD 6 - 989638
ONTARIO INC.

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 05/11 dated January 27, 2011 re: Zoning By-law Amendment Request Proposed Agricultural Zoning ZBA 31 - 601 Highway 77 and N/S Mersea Road 6 (989638 Ontario Inc.) (Previously considered at the February 21, 2011 Council Meeting)
Pages 4-7
3. Comments received from Essex Region Conservation Authority dated February 24, 2011
Page 8
4. Comments received from Ministry of Transportation dated February 25, 2011
Page 9

THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON
NOTICE OF PUBLIC MEETING
ZONING BY-LAW AMENDMENT
ZBA 31 - 601 Highway 77 and N/S Mersea Road 6

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 6 South Part Lot 6, Parts 1-7 on 12R23643 and locally known as 601 Highway 77 and the N/S Mersea Road 6 in the former Township of Mersea, now a portion of the Municipality of Leamington (see key map).

The subject property is designated Rural Residential on Schedule "A-1" of the Leamington Official Plan, as approved on February 5, 2008. The subject property is currently zoned Agricultural Hobby Farm Zone (A3) on Map 21 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 25, 2011, consider to sever a 131' x 162.37' (0.48833 ac) parcel of land to be added to the residential lot to the south (633 Mersea Road 6 - Roll # 3706 720 000 00200) and retain a 127' x 330' (0.96212 ac) residential lot. Consent may be granted to sever for technical reasons. One of the conditions of application is that a successful zoning by-law amendment is obtained to change the zone of the severed lands from Agricultural Hobby Farm (A3) to Agricultural Residential Zone (A5). The three abutting lots also require being re-zoned as the deeds from the severances to create the parcels (B/16/08, B/17/08 and B/19/08) were approved under to former Mersea Township zoning by-law #4380 however the deeds were not stamped until after the approval of the new zoning by-law #890-09 making a gap in the zoning mapping.

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.

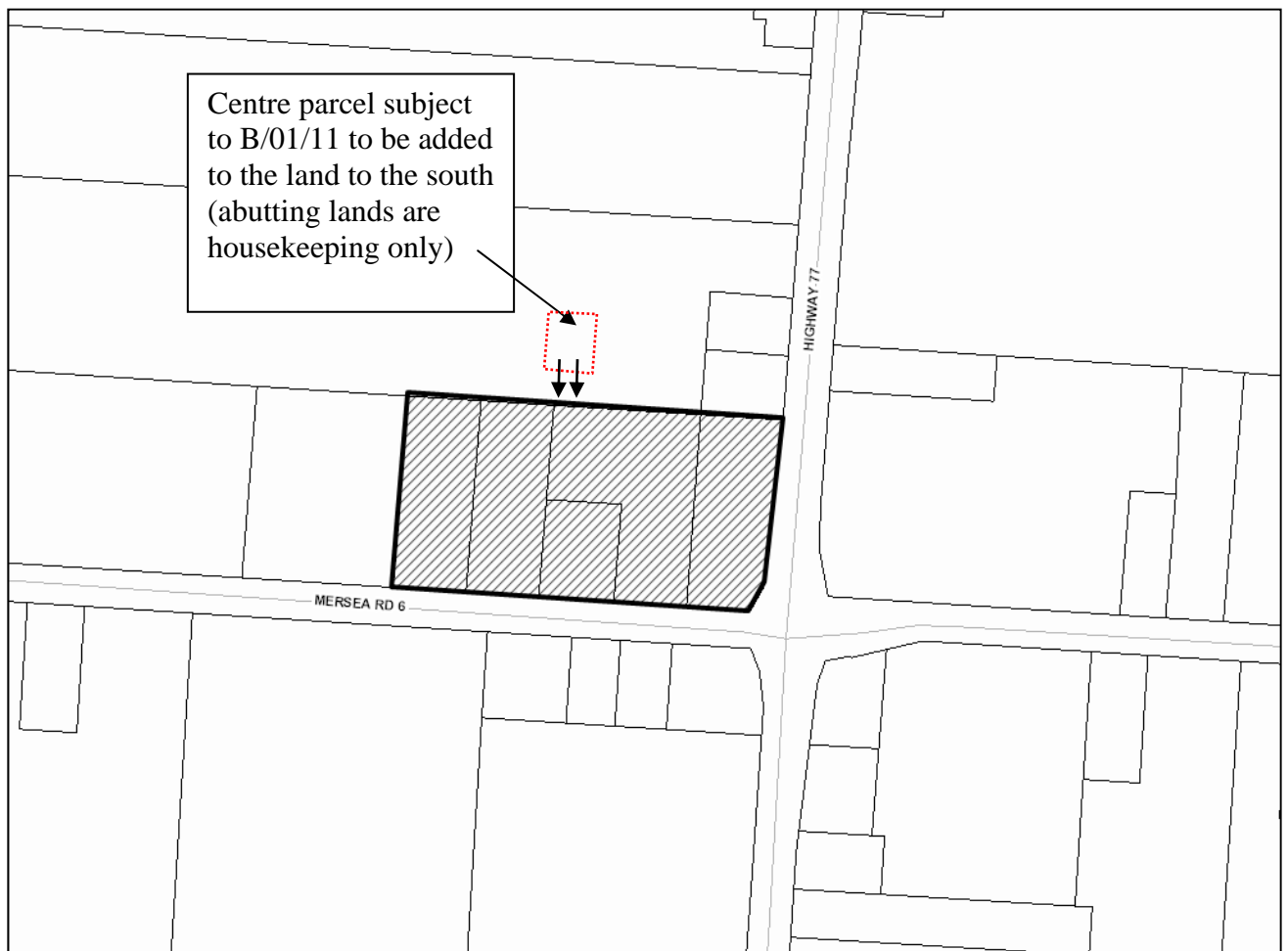
If a person or public body that files an appeal to a decision of the Municipality of Leamington in respect of the proposed zoning by-law amendment does not make oral submission at a public

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 27, 2011

SUBJECT: ZONING BY-LAW AMENDMENT REQUEST
 PROPOSED AGRICULTURAL ZONING
 ZBA 31 - 601 HIGHWAY 77 AND N/S MERSEA ROAD 6 (989638 ONTARIO INC)

AIM:

To report upon a request to schedule the required public meeting to consider a proposed zoning by-law amendment for property located on 601 Highway 77 and N/S Mersea Road 6.

BACKGROUND:

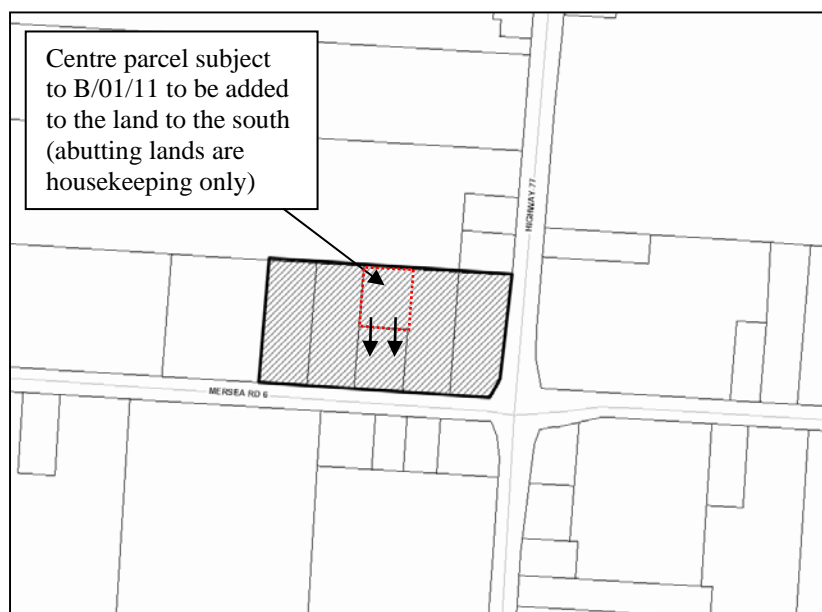
Purpose of Application:

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/01/11) on the subject lands in addition to the three abutting lots.

Property Description:

The subject property is described as Concession 6 South Part Lot 6, Parts 1-7 on 12R23643 and locally known as 601 Highway 77 and the N/S Mersea Road 6 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. Access to the lots will be from Mersea Road 6. There are agricultural, institutional and residential uses abutting the subject lands.



COMMENTS AND ANALYSIS:

County of Essex Official Plan 2005 (OP):

The subject land is designated within the County of Essex Settlement Area on Schedule "A" in the County OP.

Leamington Official Plan, 2008 (OP):

The subject property is designated Rural Residential on Schedule "A-1" the Leamington OP.

Leamington Zoning:

The subject property is currently zoned Agricultural Hobby Farm Zone (A3) on Map 21 in Zoning By-law #890-09.

The property owner requested that the Committee of Adjustment, at their meeting of January 25, 2011, consider to sever a 131' x 162.37' (0.48833 ac) parcel of land to be added to the residential lot to the south (633 Mersea Road 6 - Roll # 3706 720 000 00200) and retain a 127' x 330' (0.96212 ac) residential lot.

Lot adjustments may be permitted for legal or technical reasons 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 Hobby Farm (A3) Zone. However, the severed parcel will comply if re-zoned to the Agricultural Residential (A5) Zone.**
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.**

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 Hobby Farm (A3) to Agricultural Residential Zone (A5).

The three abutting lots require being re-zoned as the deeds from the severances to create the parcels (B/16/08, B/17/08 and B/19/08) were approved under to former Mersea Township zoning by-law #4380 however the deeds were not stamped until after the approval of the new zoning by-law #890-09 making a gap in the zoning mapping.

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 6 South Part Lot 6, Parts 1-7 on 12R23643 and locally known as 601 Highway 77 and the N/S Mersea Road 6 to change the zone from Agricultural Hobby Farm (A3) to Agricultural Residential Zone (A5), as outlined in Report PLA 05/11;

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



**Essex Region
Conservation
Authority**

360 Fairview Avenue West, Suite 311, Essex, Ontario, Canada N8M 1Y6

phone: (519) 776-5209 fax: (519) 776-8688

email: admin@erca.org home page: www.erca.org

2011 Board of Directors

February 24, 2011

Town of Amherstburg

Robert Pillon
John Sutton

Ms. Tracey Pillon-Abbs
Manager of Planning Services

Town of Essex

Sherry Bondy
John Scott

Municipality of Leamington

38 Erie St. N.

Town of Kingsville

Gord Queen
Tamara Stomp

Leamington ON N8H 2Z3

Town of Lakeshore

Al Fazio
Len Janisse

Dear Ms. Pillon-Abbs:

RE: Notice of Public Meeting to Consider Zoning By-Law Amendment (ZBA 31) - Lot 6, Concession 6; 601 Highway 77; ARN: 370672000000100; PIN: 750930336; Applicant: 989638 Ontario Inc.

Town of LaSalle

Sue Desjarlais
Ray Renaud

**Municipality of
Leamington**

Rick Atkin
Larry Verbeke

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 31).

Township of Pelee

Rick Masse

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

Town of Tecumseh

Joe Bachetti – Vice-Chair
Cheryl Hardcastle

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.

City of Windsor

Percy Hatfield – Chair
Al Maghnieh
Hilary Payne
Ed Sleiman

Thank you.

**General Manager/
Secretary-Treasurer**

Richard Wyma

Sincerely,

Rebecca Belanger, MCIP, RPP
Conservation Planner

/dl

cc: 989638 Ontario Inc.



Ministry of Transportation

Engineering Office
Corridor Management Section
West Region

659 Exeter Road
London, Ontario N6E 1L3
Telephone: (519) 873-4597
Facsimile: (519) 873-4228

Ministère des Transports

Bureau du génie
Section de gestion des couloirs routiers
Région de l'Ouest

659, chemin Exeter
London (Ontario) N6E 1L3
Téléphone: (519) 873-4597
Télécopieur: (519) 873-4228



February 25, 2011

Municipality of Leamington
38 Erie Street North
Leamington, Ontario
N8H 2Z3

via mail and email
bsweet@leamington.ca

Brian R. Sweet, Clerk

RE: Applicant: 989638 Ontario Inc.
Submission No.: ZBA 31 - (Related to B/1/11)
Reference Files: B/16/08, B/17/08, and B19/08
Part Lot 6, Concession 6
County of Essex
Municipality of Leamington - Highway 77

The Ministry of Transportation (MTO) has completed a review of the above-noted Zoning By-law amendment in accordance with the requirements of ministry highway access control policies and the Public Transportation and Highway Improvement Act (PTHIA).

MTO do not have an issue with the proposed zoning by-law amendment which will rezone the severed lands (B/1/11) as Agricultural Residential Zone (A5). MTO is also satisfied that the housekeeping for three abutting properties (B/16/08, B/17/08, and B/19/08) will not be an issue.

Owners should be reminded that the property falls within MTO's permit control area as defined in the PTHIA. Building/land use and sign permits are required from MTO before any grading or construction work commences on the subject property.

We would appreciate receiving a copy of your Committee's decision on this application for our records. Should you have any questions, please contact our office.

Yours truly,

A handwritten signature in black ink, appearing to read "John Morrisey". The signature is written in a cursive style with a prominent initial "J".

John Morrisey
Corridor Management Planner
Corridor Management Section
West Region, London

c. S. Barnaibe, Corridor Management Officer - Corridor Management Section