

MUNICIPALITY OF LEAMINGTON

AGENDA



PUBLIC MEETING

Proposed Zoning By-law Amendment

**Proposed Agricultural Re-zoning
1218 Mersea Road 5 and
S/S Mersea Road 5**

**MONDAY, AUGUST 31, 2009
COMMENCING AT 7:00 P.M.
IN THE COUNCIL CHAMBERS**

ITEMS FOR CONSIDERATION:

1. Notice of Public Meeting
Pages 2-3
2. Report PLA 26/09 dated August 5, 2009 re: Zoning By-law Amendment - Proposed Agricultural Zoning - 1218 Mersea Road 5 and S/S Mersea Road 5
(For Reference Only - Previously considered at the August 10, 2009 Council Meeting)
Pages 4-7

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THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON
NOTICE OF PUBLIC MEETING
ZONING BY-LAW AMENDMENT
(AGRICULTURAL RE-ZONING - 1218 MERSEA ROAD 5 AND S/S MERSEA ROAD 5)

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, August 31st, 2009 at 7:00 pm** in the Council Chambers at the Municipal Building.

The subject property is described as Concession 4, South Part Lot 12 and Concession NTR West Part Lot 236, Part Lot 237, Part Road Allowance and Parts 2 and 3 on 12R - 14973 which is locally known as 1218 Mersea Road 5 and S/S Mersea Road 5 in the former Township of Mersea, now a portion of the Municipality of Leamington (see key map).

The subject property is currently zoned Agricultural General (A1) in Zoning By-law #890-09. The property owner had requested that the Committee of Adjustment consider a lot adjustment to sever a 22 ft irregular shaped parcel to be added to an existing residential lot at 1218 Mersea Road 5 and retain a 124 acre (+/-) farm parcel. The application for consent was approved on condition that a successful application for zoning by-law amendment is obtained to change the zone of the severed lands from Agricultural General Zone (A1) to Agricultural Residential Zone (A5). The land which the severed parcel will be joined to is also zoned Agricultural Residential Zone (A5).

The subject property is designated Agricultural on Schedule "A-3" in the Official Plan for the Municipality of Leamington (approved 2008).

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.

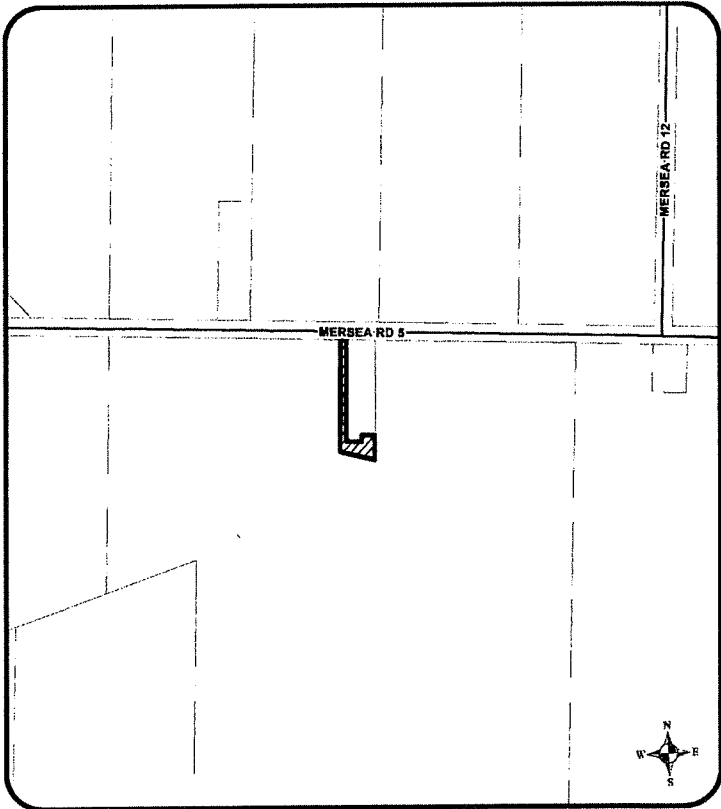
If a person or public body that files an appeal to a decision of the Municipality of Leamington in respect of the proposed zoning by-law amendment does not make oral submission at a public

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 11th day of August 2009.

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



Legend

 Subject Property

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Provided by the, Municipality of Leamington Engineering Department - GIS Services
38 Erie Street North, Leamington, Ontario N8H 2Z3
TEL: (519) 326-5761 FAX: (519) 326-2481

REPORT

TO: MAYOR AND MEMBERS OF COUNCIL

FROM: TRACEY PILLON-ABBS, MANAGER OF PLANNING SERVICES

DATE: AUGUST 5 2009

SUBJECT: ZONING BY-LAW AMENDMENT
PROPOSED AGRICULTURAL ZONING
1218 MERSEA ROAD 5 AND S/S MERSEA ROAD 5

AIM:

To report upon a request to schedule the required public meeting to consider a proposed zoning by-law amendment for property located at 1218 Mersea Road 5 and S/S Mersea Road 5.

BACKGROUND:

Purpose of Application:

Staff has received an application for re-zoning by the owner(s) of the property, to amend the subject lands. A zoning by-law amendment is a condition of approval for a consent (B/117/09) application on the subject lands.

Property Description:

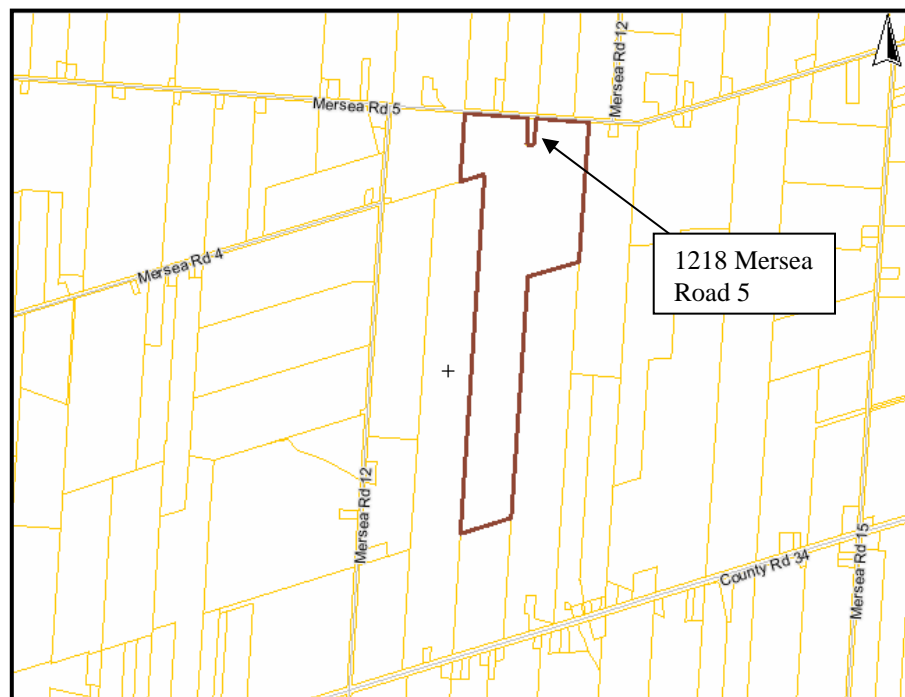
The subject property is described as concession 4, south part Lot 12 and concession NTR west part lot 236, part lot 237 and part road allowance and parts 2 and 3 on 12R - 14973 which is locally known as 1218 Mersea Road 5 and S/S Mersea Road 5 in the former Township of Mersea, now a portion of the Municipality of Leamington (see key map).

Currently, the property is being farmed and has some accessory structures.

The property has access to municipal water along with private sanitary and storm sewers.

The property has frontage on and access from Mersea Road 5.

There is a mix of residential and agricultural uses abutting the land.



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-3" 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.

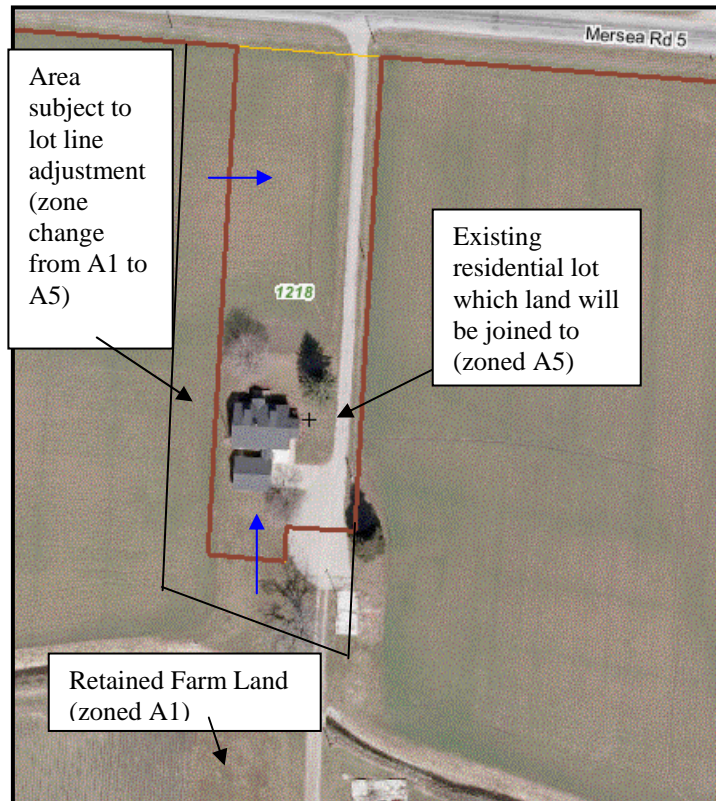
Leamington Zoning:

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

The property owner had requested that the Committee of Adjustment consider a lot adjustment to sever a 22 ft irregular shaped parcel to be added to an existing residential lot at 1218 Mersea Road 5 and retain a 124 acre (+/-) farm parcel (see site plan).

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 (10 ha/24.7 ac) of the Agricultural General (A1) 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 for consent can be supported on condition that 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). The land which the severance will be joined to is zoned 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, August 31, 2009 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 1218 Mersea Road 5 and S/S Mersea Road 5 to amend the subject lands from Agricultural General Zone (A) to Agricultural Residential Zone (A5), as outlined in Report PLA 26/09;

AND that Administration be directed to schedule the required public meeting for Monday, August 31, 2009 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