



## MUNICIPALITY OF THAMES CENTRE

**REPORT NO.** PDS-020-25

**FILE NO.** Z4-25

**TO:** Mayor and Members of Council

**FROM:** E. Besch, Planner

**MEETING DATE:** April 28, 2025

**SUBJECT:** Zoning By-law Amendment Application (Z4-25); Norman Demaray, Debra Demaray and Andrew Demaray (Applicants); Stephen Carneiro Fernandes (Agent); 5251 & 5247 Dorchester Road

### RECOMMENDATION:

**THAT** Application for Zoning By-law Amendment Z4-25 as requested by Norman, Debra and Andrew Demaray to rezone a portion of the subject property from a site-specific Rural Industrial (M2-15) Zone to a site-specific Agricultural (A-69) Zone and amend the zoning provisions of the site-specific Rural Industrial (M2-15) Zone for lands legally described as Part of Lot 19, Concession 5 S.R.T.; and Parts 1 to 2 and 3 to 4 on Reference Plan 33R-2402 (geographic Township of North Dorchester), Municipality of Thames Centre be **APPROVED**;

**AND THAT** the implementing by-law be **CONSIDERED**, as included in the by-law portion of the agenda.

### PURPOSE:

The purpose and effect of the zoning by-law amendment application is to rezone a portion of the subject lands from a site-specific Rural Industrial (M2-15) Zone to a site-specific Agricultural (A-69) Zone to recognize the agricultural use of the land as well as lot deficiencies created through Consent B11-24. The application also seeks to amend the zoning provisions of the existing M2-15 Zone to recognize the lot deficiencies created through Consent B11-24.

### BACKGROUND:

The subject property, 5251 Dorchester Road, is a 5.11-hectare (12.64 acre) parcel situated on the west side of Dorchester Road and north of Harrietsville Drive. The subject lands contain a single detached dwelling and a workshop which is used for a drainage business. According to information provided by the agent, the drainage business has been operating since 1968, and the workshop was built in 1994 to support the business. The lands are serviced by private well and septic system. Additionally, the land is used for agricultural

purposes in the form of field crop cultivation and contains natural heritage features identified by the Middlesex Natural Heritage Systems Study (2014) including significant woodlands.

The subject rezoning application was required as a condition of approval for Consent B11-24, which was conditionally approved on November 18, 2024. The purpose of the consent was to convey a parcel of land having a frontage of approximately 51.1 metres (167.65 ft) along Dorchester Road and an area of 0.753 hectares (1.86 ac) for lot addition purposes to be merged in the same name and title as the abutting property to the north known municipally as 5247 Dorchester Road. The intent of the lot addition is to separate the drainage business from agricultural operation. Through the boundary adjustment, the workshop on the lands to be conveyed will be located at 5247 Dorchester Road which also contains a building used for the drainage business. Once enlarged by the conveyed lands, 5247 Dorchester Road will have an area of approximately 1.311 hectares (3.24 ac) and a frontage of approximately 88.97 metres (291.9 ft). The retained lands will have an area of approximately 4.357 hectares (10.76 ac), a frontage of approximately 44.52 metres (146.09 ft) and contain the single detached dwelling and the cultivated land.

Currently, the entirety of 5251 Dorchester Road is within the site-specific Rural Industrial (M2-15) Zone which permits only a 'contractor's yard or shop', 'accessory dwelling unit' and 'accessory building, structure or use'. The zone requires a minimum lot area of 4,000 m<sup>2</sup>, minimum lot frontage of 50 metres (164.04 ft), front yard depth of 25 metres (82.02 ft), interior side yard width of 18 metres (59.1 ft), rear yard depth of 18 metres (59.1 ft), and a maximum lot coverage of 35%. As a result of Consent Application B11-24, the portion of the drainage business within the M2-15 Zone no longer complies with the interior side yard setback requirement, and thus the applicants are requesting to amend the M2-15 Zone to allow for a side yard setback of 12 metres (39.37 ft), which is the distance to the new lot line created through Consent B11-24.

In addition to the amendment to the M2-15 Zone, the applicants are requesting to rezone the retained portion of Consent B11-24, being the residential dwelling and land in cultivation, from the M2-15 Zone to a site-specific Agricultural (A-69) Zone to recognize the agricultural use of the lands. The parent Agricultural (A) Zone requires a minimum lot area of 40 hectares, minimum lot frontage of 150 metres (492.13 ft), front yard depth of 25 metres (82.02 ft), interior side yard width of 15 metres (49.21 ft), and rear yard depth of 15 metres (49.21 ft). The requested site-specific A-69 Zone would recognize the deficient lot area, frontage and interior side yard setback created through Consent B11-24.

Surrounding land uses are predominantly agricultural and rural residential in nature. The Hamlet of Gladstone is located approximately 412 metres (1351.71 ft) to the north of the subject lands and a branch of CN Rail is located approximately 68 metres (223.1 ft) to the south.

## **ANALYSIS:**

The Provincial Planning Statement, the County Official Plan, and the Thames Centre Official Plan generally permit consents involving minor boundary adjustments, provided that a non-viable farm parcel is not created and that agricultural activities are not

adversely impacted. In addition, the conveyance shall require the lands being severed be merged in the same name and title as the land to which they are being added.

With respect to the request to rezone the retained land from the Rural Industrial (M2-15) Zone to a site-specific Agricultural (A) Zone, staff are of the opinion that it is appropriate, as the M2-15 Zone does not permit agricultural uses. The site-specific agricultural zone will also recognize the new lot area of 4.4 hectares (10.87 ac), lot frontage of 44 metres (144.36 ft), and side yard width of 11 metres (36.1 ft). The reductions are supportable from a planning perspective as they are recognizing what is already on site, with no structures or change of use proposed at this time. Although 4.4 hectares is a significant deviation from the required 40 hectares for lots in the A Zone, there is no loss of agricultural land or new lot resulting from Consent B11-25, and moving the property from a rural industrial zone to an agricultural zone is, in fact, more in line with the underlying Agricultural designation found within the Official Plan.

Regarding the requested amendment of the M2-15 Zone, staff note that the permitted uses within the zone will remain the same. The subject application would only add a permitted side yard width of 12 metres (39.37 ft), whereas 18 metres (59.05 ft) is currently required in the M2-15 Zone. The intent side yard setback in the rural industrial zone is to ensure adequate separation between the use and adjacent non-industrial uses. In this case, staff are satisfied that 12 metres (39.37 ft) would continue to provide adequate separation between the shop and the dwelling, as the dwelling is also setback approximately 12 metres (39.37 ft) from the new lot line, for a total of 24 metres (78.74 ft) between the structures. Further, there is an existing row of evergreen trees that will act as a physical and visual buffer.

The Thames Centre Official Plan requires that prior to the approval of a zoning by-law amendment, it shall be established to the satisfaction of Council that:

- *Soil and drainage conditions are suitable to permit the proper sitting of buildings;*

The existing buildings are to be utilized with no exterior changes or renovations proposed at this time. Any renovation or proposed change of use will require a building permit which would address drainage as part of the application.

- *Services and utilities, whether they are municipal or private, can adequately accommodate the proposed development. Full municipal or communal sanitary and water services will be the preferred method of servicing development;*

The existing private sanitary sewage disposal and water systems are not proposed to be altered, and no change in the structures that they service is proposed at this time.

- *The road system is adequate to accommodate projected increases in traffic;*

Impact to traffic is not expected as the rezoning is recognizing what is already on site. No change in use is proposed currently.

- *The land fronts on a public road (unless specifically noted as an approved private road) which is of a reasonable standard of construction and maintenance;*

The lands front onto a public road, being Dorchester Road and furthermore, the Director of Public Works identified no concerns in the circulation of this application.

- *Lot frontage and area is suitable for the proposed use and conforms to the standards required by the implementing Zoning By-law;*

The lot area and frontage of the proposed site-specific zone is less than the minimum required in the parent Agricultural (A) Zone; however, staff are of the opinion that the requested frontage and area are appropriate as they would recognize the existing situation and use of the lands.

- *Adequate measures will be taken to alleviate or prevent any adverse effects that the proposed use may possibly have upon any proposed or existing adjacent use or on the natural heritage features and functions.*

Unacceptable adverse effects on surrounding uses are not anticipated considering the structures and uses would remain unchanged.

Based on the foregoing, the subject proposal is consistent with the PPS and conforms to the County of Middlesex and Thames Centre Official Plans.

## CONSULTATION:

### Drainage Superintendent:

No concerns.

### County Engineer:

No comment.

### Director of Public Works:

Public Works have no additional comments than the ones provided on November 12, 2024 (below).

- a) A separate entrance (including entrance permit) to Parcel “B” will be required for this severance**
- b) The driveway installation shall conform with Thames Centre Design Standards section 9.4 Driveways**

### CN Railway:

**Comments on, within 500m of CPKC Rail line**

**Please note that CPKC's St Thomas Subdivision is classified as a principal mainline track.**

CPKC is generally not opposed to Commercial/Industrial type developments adjacent to our right of way. Notwithstanding that statement, commercial developments should still meet certain recommendations based upon site specific conditions and intended use. CPKC is not in favour of residential uses that are not compatible with rail operations as the safety and welfare of residents can be adversely affected by rail operations. CPKC freight trains operate 24/7 and schedules/volumes are subject to change.

CPKC's approach to any development or expansion in the vicinity of rail operations is encapsulated by the recommended 2013 Proximity Guidelines developed through collaboration between the Railway Association of Canada and the Federation of Canadian Municipalities. CPKC continues to recommend that all proposed developments (whether residential, commercial, or industrial) follow the 2013 Proximity Guidelines. It is incumbent upon the developer to incorporate these safety measures to a degree that satisfies the requirements of the relevant agencies issuing building and development permits. The 2013 Proximity Guidelines can be found here: <https://www.proximityinitiative.ca/>

In addition, all construction, continued maintenance, access, ingress and egress must be done without entering railroad right of way. This includes but is not limited to maintenance of any equipment, lawn care, snow plowing and emergency exits via windows or doors.

CPKC recommends that the below condition be inserted in all property and tenancy agreements or future offers of purchase and sale for all dwelling units in the proposed building(s):

"CPKC and/or its assigns or successors in interest has or have a railway right-of-way and/or yard located adjacent to the subject land hereof with operations conducted 24 hours a day, 7 days a week, including the shunting of trains and the idling of locomotives. There may be alterations to, or expansions of, the railway facilities and/or operations in the future, which alterations or expansions may affect the living environment of the residents in the vicinity. Notwithstanding the inclusion of any noise and/or vibration attenuating measures in the design of the development and individual dwellings, CPKC will not be responsible for complaints or claims arising from the use of its facilities and/or its operations on, over, or under the aforesaid right-of-way and/or yard."

In the circulation of the notice of public meeting to surrounding property owners, no responses have been received from the public as of the date of this report.

#### **FINANCIAL IMPLICATIONS:**

None.

## STRATEGIC PLAN LINK

**Pillar:** *Smart Planning*

**Goal:** *Make smart planning decisions to grow the community, while maintaining a "hometown feel"*

## ATTACHMENTS:

Location Map

Prepared by: E. Besch, Planner

Reviewed by: A. Storrey, Director of Planning & Development Services

Reviewed by: D. Barrick, Chief Administrative Officer