

**TO:** Mayor and Members of Council  
**FROM:** Storey Samways Planning Ltd.  
**DATE:** January 5, 2010  
**SUBJECT:** Planning Services Report

**GENERAL FILE INFORMATION AND  
KEY MAP:**

**Application:** Combined Application for  
Consent (File B-85/09) and  
Zoning By-law Amendment  
(File D-28 HA/69/09/W)

**Hansen#:** 5863

**Applicant:** William A. Whittington (Owner),  
Murray Ball & Sons Inc.  
(Purchaser)

**Location:** 21901 Mull Road  
Part of Lot 19, Concession 13,  
Lake Erie Survey

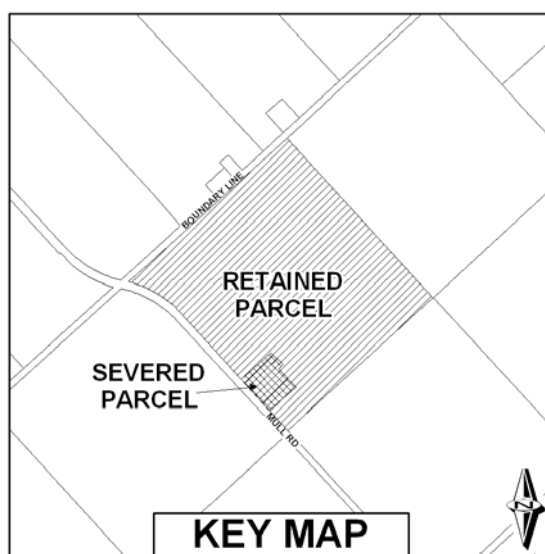
**Roll Number:** 3650 140 005 85000

**Community:** Harwich (South Kent)

**RECOMMENDATIONS:**

It is recommended that:

1. Council approve consent application B-85/09 concerning Part of Lot 19, Concession 13, Lake Erie Survey, in the Community of Harwich, to dispose of a surplus dwelling (21901 Mull Road) on a 1.51 ha (3.735 ac.) lot, together with a drainage easement over the severed parcel in favour of the retained parcel, subject to the following conditions:



- a) that the Chatham-Kent Zoning By-law be amended to rezone the severed parcel to a site-specific agricultural classification which will permit a single detached dwelling on a lot created as a result of a consent, after January 1, 2006, with an area greater than 0.8 ha;
  - b) that the applicant(s) revise the sketch to indicate the location and extent of the drainage easement, and that the said easement be registered on title of the severed parcel;
  - c) that the severed and retained parcels be transferred to Murray Ball & Sons Inc., as outlined in the Agreement of Purchase and Sale;
  - d) that the applicant(s) pay \$85 for the cost associated with the apportionment of assessment under the Drainage Act related to the subject lands;
  - e) that the applicant(s) demonstrate the septic system on the severed lot is functioning in accordance with Municipal Protocol;
  - f) that the necessary deed(s), transfer or charges be submitted in triplicate; signed and fully executed (no photo copies) including a copy of the reference plan, prior to certification.
2. Council approve the zoning amendment application D-28 HA/69/09/W and adopt the by-law to implement the consent.

### **DESCRIPTION OF PROPOSAL:**

The subject land is a 40.47 ha (100 ac.) farm parcel located on the east side of Mull Road, south of Boundary Line. The property contains an existing dwelling and two outbuildings. The dwelling and one outbuilding on the subject property is surplus to the farming operation of the prospective purchaser, who owns an additional 380 ha (938 ac.) in the area. The base of the farming operation and personal residence of the purchaser is located at 10513 Pinehurst Line.

The applicant is proposing to sever the dwelling and one outbuilding on a 1.51 ha (3.735 ac.) lot. The proposed lot is larger than a standard surplus dwelling lot that typically ranges from 0.4 ha (1 ac.) to 0.8 ha (2 ac.). The increased size is due partly to the location of an outbuilding which the owner would like to retain on the north side of the parcel and the existing large u-shaped driveway in and out of the lot. The lands included with the lot also contain a large grassed area and the septic system for the existing dwelling. The proposed lot is also well defined by existing mature tree rows along the north and south boundaries. Lastly, none of the lands included with the lot are actively farmed.

It is recommended that the zoning by-law be amended to permit a dwelling on a lot larger than the 0.8 ha (1.98 ac.). Under the Chatham-Kent Zoning By-law, the prohibition of dwellings on the remnant lands is automatically implemented as a result of the consent to sever the surplus dwelling.

The zoning amendment is required to implement the severance, according to the requirements of the Chatham-Kent Official Plan and the Provincial Policy Statement with respect to the creation of a lot for a surplus dwelling.

**BACKGROUND:**

Severed Parcel (21901 Mull Road)	Dimensions – 128.14 m F x irregular D (420.41 ft. x irregular) Lot Area – 1.51 ha (3.735 ac.) Existing Use/Buildings – single-detached dwelling & one outbuilding Services – private water well and private septic system Access – existing driveway access
Retained Parcel	Frontage – 458.8 m ± (1505.24 ft. ±) Area – 38.96 ha ± (96.265 ac. ±) Existing Use – farmland, accessory building Access – existing farm access
Official Plan	Agricultural Area
Existing Zoning	“A1, Agricultural”

**CONSULTATION:**

At the time of writing, no unfavourable comments have been received from any of the agencies canvassed and the Technical Advisory Committee (TAC) supports the application.

**ANALYSIS:**

*Community Strategic Plan*

The recommendations in this report do not support, negatively or positively, a specific objective of the Community Strategic Plan. They are neutral issues.

### *Provincial Policy Statement*

Section 2.3.4.1(c) permits, “a residence surplus to a farming operation as a result of farm consolidation,” to be severed, “provided that the planning authority ensures that new residential dwellings are prohibited on any vacant remnant parcel of farmland created by the severance.” The application is consistent with the PPS definition of a residence surplus to a farming operation and future dwellings will be prohibited on the retained farm parcel through the by-law.

### *Chatham-Kent Official Plan*

Section 3.10.2.18.2(b) (agricultural consent policies) of the Chatham-Kent Official Plan supports consents to sever a lot where a previous or current farm acquisition has rendered a habitable farm dwelling surplus to the needs of the farm operation, subject to the following conditions:

- i) The farm parcel will be zoned so as to prohibit the construction of any additional dwellings.

**Comment** – Section 5.21.1(a), Permitted Uses (Agricultural Zone (A1)), of the Chatham-Kent Zoning By-law contains provisions which automatically prohibits additional dwellings on a lot created as a result of a consent to sever a dwelling, after January 1, 2006, with an area greater than 0.8 ha.

- ii) The non-farm parcel will be zoned to recognize the non-farm residential use.

**Comment** – Similar to item (i) above, Section 5.21, Agricultural Zone (A1), contains provisions which automatically limits the permitted uses on lots under 20 ha, such as is the case for the severed dwelling lot in this situation.

- iii) Any livestock facilities to remain on the severed or retained parcel will be made unsuitable for further livestock operations if the MDS I provisions cannot be met.

**Comment** - the application complies with MDS I.

- iv) The implementing zoning by-law will not impose a setback on nearby expanding livestock operations greater than that required by the application of Minimum Distance Separation II Formula including the MDS Guidelines.

**Comment** - the application indicates that there are no livestock operations within 500 metres of the subject parcel.

### *Zoning*

The new Chatham-Kent Zoning By-law contains provisions under the Agricultural Zone which were intended to reduce the need for zoning amendments that have typically been a requirement of all surplus dwelling severances. Those provisions include the prohibition of new dwellings on retained farm parcels resulting from the severance of a surplus dwelling and the tiered regulations which automatically recognize the non-farm use of the severed lot and limit its permitted uses. However, these regulations only apply in the case of a retained parcel which meets of the minimum zoning requirements and for severed lots less than 0.8 ha (1.98 ac.). In this case the lot area of the severed dwelling is greater than 0.8 ha (1.98 ac.) and as such a zoning amendment is necessary.

As a result of the proposed surplus dwelling severance, an amendment to the Chatham-Kent Zoning By-law is required in order to rezone the severed parcel to a site-specific classification which will permit a single detached dwelling on a lot created as a result of a consent, after January 1, 2006, with an area greater than 0.8 ha (1.98 ac.).

### *Conclusion*

The proposed consent and zoning amendment have been reviewed in the context of the Provincial Policy Statement, the Official Plan and Zoning By-law and are in full conformity. Therefore, the application is being recommended for approval subject to conditions.

### **FINANCIAL IMPLICATIONS:**

There is a nominal change in property taxes anticipated as a result of this application.

Prepared by:

Reviewed by:

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Robert Brown, MCIP, RPP  
Storey Samways Planning Ltd.

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Ralph Pugliese, MCIP, RPP, DPA  
Director, Planning Services



Looking northeast at the existing dwelling on the severed parcel



Looking northeast at the outbuilding on the severed parcel



Looking northeast over the retained farm parcel



Looking east over the retained farm parcel

