

THE MUNICIPALITY OF LAMBTON SHORES

Report PL 08-2022

Council Meeting Date: April 26, 2022

TO: Mayor Weber and Members of Council
FROM: Will Nywening, Senior Planner
RE: Severance Agreement - Concession B, Plan 7, Part Lots 23 and 8381 Defore Drive

RECOMMENDATION:

THAT Report PL 08-2022 being a report respecting a request to enter into a Severance Agreement, submitted by Dan and Kim MacLachlan, respecting 8381 Defore Drive, be received; and

THAT the Severance Agreement between Velma MacLachlan, Dan and Kim MacLachlan, and the Corporation of the Municipality of Lambton Shores, respecting 8381 Defore Drive, be approved; and

THAT By-Law 28 of 2022 authorizing the execution of an agreement with Velma MacLachlan and Dan and Kim MacLachlan be approved.

SUMMARY

This report relates to a request by Dan and Kim MacLachlan to enter into a severance agreement respecting lands known as 8381 Defore Drive, in fulfillment of a condition of consent for applications B-21/2021 and B-22/2021 and also in fulfillment of Council resolution 12-1221-11.

BACKGROUND

The Committee of Adjustment granted consent applications B-21/2021 and B-22/2021 on October 27, 2021. The effect of this is to realign two existing farm parcels to create (1) a 1.0 hectare lot containing the existing house and detached garage and (2) a 22.5 hectare vacant farm parcel. Currently, several parcels, including the subject lands, lack frontage on a public street. Committee approved the consent subject to conditions, including the following:

6. *That the applicants convey a road allowance to Municipal standards to the satisfaction of the Municipality for the extension of Defore Drive and the provision of lot frontage to the resultant parcels;*

7. *That the applicants enter into an agreement with and to the satisfaction of the Municipality respecting matters relevant to the severance, including the dedication of public highways and the construction of a cul-de-sac;*
8. *That the applicant apply for and obtain a rezoning to change the zoning on the severed parcels to residential with special allowance for accessory building size and also to prohibit a dwelling on the resultant farm parcel;*

Council passed By-law 102-2021 at its December 21, 2021 Council meeting. This rezoned the new residential lot to the “Residential-5 Exception 8 (R5-8) Zone” and the retained farm to the “Agriculture-2 Exception 12 (A2-12) Zone”. This fulfilled condition of consent no. 8. At that Council meeting, Council also confirmed and provided further direction regarding the Committee’s conditions no. 6 and 7. Council’s resolution stated in part:

21-1221-11

*...**THAT** Staff be directed to prepare a severance agreement that requires: (1) the conveyance of a road allowance for a cul-de-sac with a 18m radius and including the municipal water line and (2) the physical extension of the road and provision of a cul-de-sac to the same standard of construction as the existing Defore Drive.*

Staff has prepared an authorizing by-law and a draft development agreement to address the conditions of consent no. 6 and 7 and Council resolution 21-1221-11. The authorizing by-law and draft agreement are included in the by-laws section of Council's agenda. The agreement has three parties: the Municipality, Velma MacLachlan as the current owner of 8381 Defore Drive, and Dan and Kim MacLachlan as the intended purchasers of 8381 Defore Drive who will be responsible for most of the requirements under the agreement. Notable requirements of the agreement include:

- The Municipality will be conveyed a parcel of land sufficient in size to construct a cul-de-sac with a 13.0m radius and provide 5.0m boulevards. The existing municipal waterline will be contained within the conveyed lands.
- The developer will construct a 7.0m wide street and 13.0m radius cul-de-sac to extend Defore Drive over the Municipally-owned lands at the end of Defore Drive and on the lands being conveyed to the Municipality from the subject lands. (Underground services already exist).
- The Municipality will pass a road dedication by-law to dedicate the following as a public highway:
 - Part 23 on RP25R225, the Municipally-owned parcel of land at the end of Defore Drive, which several properties must cross currently to gain access their properties, and
 - The lands being conveyed to the Municipality for construction of the cul-de-sac.
- The Municipality will pass an assumption by-law and return securities when the works are satisfactorily completed.

- The developer will indemnify the Municipality for any claims arising from the works during either construction or the two years following completion of construction.

The proposed development agreement implements a condition of consent, provides lot frontage and street access to all associated properties, and further implements the development approved in principle by Council and the Committee of Adjustment through rezoning and provisional consent. Staff has no objection to approval of the agreement as drafted.

ALTERNATIVES TO CONSIDER

None at this time.

RECOMMENDED ACTIONS

That Council, receive Report PL 08-2022, approve the draft severance agreement, and approve a By-law to authorize the execution of the severance agreement.

FINANCIAL IMPACT

The Developer would pay a \$4000.00 deposit to cover any Municipal engineering review costs and a \$1000.00 legal deposits for any miscellaneous legal fees the Municipality may incur and as security for the registration of the agreement on title. The developer will provide the Municipality with a security equal to the estimate cost to complete the works required under this agreement.

CONSULTATION

Dan and Kim MacLachlan, the applicants
Joseph Hentz, Leners LLP, legal counsel for the applicants
Chris Learman, Spriet Associates, engineer for the applicants
Nick Verhoeven, Director of Public Works, Municipality of Lambton Shores

ATTACHMENTS

1. Subject Lands
2. Proposed Road Conveyance and Construction

Attachment 1 – Subject Lands



Subject Lands



Municipally-Owned Parcel (not a road allowance)