



The Corporation of the Town of Tecumseh

Planning & Building Services

To: Mayor and Members of Council

From: Brian Hillman, Director Planning & Building Services

Date to Council: July 14, 2020

Report Number: PBS-2020-24

Subject: Proposed Housekeeping Amendment to Sandwich South Zoning By-law 85-18 to Limit Permitted Uses on Lands Zoned Agricultural Zone (A) in Settlement Areas
Scheduling of a Public Meeting
OUR FILE: D19 HOUS2020

Recommendations

It is recommended:

That Report PBS-2020-24 be **approved**, and

Further that the scheduling of a public meeting in accordance with *The Planning Act*, for the proposed housekeeping zoning by-law amendment to the Sandwich South Zoning By-law 85-18 to limit the permitted agricultural uses on lands zoned Agricultural Zone (A) within settlement areas as delineated in the Sandwich South Official Plan, **be authorized**, once Council formally approves the holding of virtual public meetings.

Executive Summary

There are currently three separate settlement areas in the Town's current Official Plans that collectively identify areas where long-term urban uses are to be established. Within each of these three settlement areas, future development lands are either within a Hamlet Development Designation (requiring further study and Official Plan amendments to determine and identify the ultimate preferred urban land uses) or a specific urban land use designation (such as the Maidstone Hamlet Residential designation).

These future development lands in the three settlement areas continue to be zoned "Agricultural (A)" in the corresponding Zoning By-law, recognizing the current use of the

property for farming prior to their development and conversion to urban uses. Although land being used for agricultural uses is a common and normal precursor to the process of urbanization, there are instances where the introduction of more intensive agricultural uses on these lands can frustrate the long-term objective for their conversion to urban uses.

Accordingly, it is prudent and appropriate to proceed with a housekeeping amendment to the Zoning By-law that would have the effect of placing the properties currently zoned Agricultural (A) Zone and that are within an identified settlement area into a restrictive Agricultural (A) Zone. This restrictive Agricultural (A) Zone would allow agricultural uses with the exception of livestock intensive agricultural uses, mushroom farms and greenhouse operations.

Background

There are currently three separate settlement areas in the Town's current Official Plans that collectively identify areas where long-term urban uses are to be established. These are the northerly area (comprising the former Town of Tecumseh, the former Village of St. Clair Beach and the Tecumseh Hamlet), Oldcastle Hamlet and Maidstone Hamlet (see Attachment 1). Within each of these three settlement areas, future development lands are either within a Hamlet Development Designation (requiring further study and Official Plan amendments to determine and identify the ultimate preferred urban land uses) or a specific urban land use designation (such as the Maidstone Hamlet Residential designation). All other lands in the Town outside of these settlement areas are either identified in the Official Plan for long-term agricultural use or natural heritage use, with the exception of the lands locally known as the Coxon lands at Manning Road and the 401 that are designated for specific commercial uses.

These future development lands in the three settlement areas continue to be zoned "Agricultural" in the corresponding Zoning By-law, recognizing the current use of the property for farming prior to their development and conversion to urban uses (see Attachment 2). Although land being used for agricultural uses is a common and normal precursor to the process of urbanization, there are instances where the introduction of more intensive agricultural uses on these lands can frustrate the long-term objective for their conversion to urban uses. More intensive forms of agricultural uses include livestock intensive agricultural uses, mushroom farms and greenhouse operations. There is a significant financial investment in these types of uses that commonly results in them remaining active for an extended period of time, thereby potentially delaying the lands' conversion to urban uses. In some instances, these more intensive forms of agricultural uses may have attributes that create incompatibilities with future urban development.

Historically, there have been very few of these more intensive forms of agricultural uses undertaken in the Town. Farm operations in Tecumseh are predominantly characterized by cash crops (corn and soybeans). However, a building permit was recently issued for a greenhouse operation (cannabis) on lands designated Hamlet Development in the Official Plan and zoned Agricultural (A) in the Zoning By-law on the south side of King's Highway No. 3, east of the Greenlawn Memorial Cemetery in Oldcastle Hamlet. The permit was issued based upon, among other things, a greenhouse being a permitted agricultural use in the Agricultural (A) Zone.

Accordingly, it is prudent and appropriate to proceed with a housekeeping amendment to the Zoning By-law that would have the effect of placing the properties currently zoned Agricultural (A) Zone and that are within an identified settlement area into a restrictive Agricultural (A) Zone. This restrictive Agricultural (A) Zone would allow agricultural uses with the exception of the following:

- i) livestock intensive agricultural uses;
- ii) mushroom farms; and
- iii) greenhouse operations.

Comments

Provincial Policy Statement

The *Planning Act* establishes that Council, when making decisions that affect a planning matter, “shall be consistent with” the 2020 Provincial Policy Statement (“PPS”) issued under the *Planning Act*.

The following are the relevant excerpts from the PPS:

“1.1 MANAGING AND DIRECTING LAND USE TO ACHIEVE EFFICIENT AND RESILIENT DEVELOPMENT AND LAND USE PATTERNS

1.1.3 Settlement Areas

1.1.3.1 Settlement areas shall be the focus of growth and development.

1.1.3.2 Land use patterns within settlement areas shall be based on densities and a mix of land uses which:

- a) Efficiently use land and resources;
- b) Are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;”

In summary, the PPS contemplates that lands within identified urban areas should be preserved for urban land uses. Allowing for agricultural uses that require significant investment and buildings/structures on lands that are identified for urban land uses may significantly delay the ability to develop these lands in the future.

County of Essex Official Plan

The lands subject to the proposed housekeeping zoning by-law amendment are all located within an identified Primary Settlement Area of the County Official Plan. The goals and policies of the County of Essex Official Plan are very similar in nature to those found in the PPS insofar as they encourage a range of urban development within identified settlement areas

“3.2.4.1 Policies

The following policies apply to Primary Settlement Areas:

- a) Primary Settlement Areas shall be the focus of growth and public/private investment in each municipality;

...

- h) All types of land use are permitted within the “Settlement Areas” designation subject to the specific land use policies of the local Official Plans.”

The proposed housekeeping amendment would be in conformity with the policies of the County of Essex Official Plan.

Sandwich South Official Plan

The lands subject to this housekeeping amendment are either designated in the Sandwich South Official Plan for specific urban uses (e.g. Residential, Commercial etc.) or “Hamlet Development”, which establishes the lands are suitable for urban uses which are to be determined through further study and amendments.

Lands designated for urban purposes (i.e. Residential, Commercial, Industrial, Recreational and Community Facility) are intended to develop in accordance with the corresponding policies for those designations, however in the interim existing uses and agricultural uses are permitted.

The goal of the Hamlet Development designation is to identify areas of the Town that are appropriate for future additional urban land uses on full municipal services.

Subsection 3.8.2 of the Official Plan contains the policies for lands designated Hamlet Development, with the following excerpts having particular relevance in relation to the proposed housekeeping amendment:

- “ iii) agricultural uses as set out in subsection 3.1 of this Plan, with the exception of livestock intensive agricultural uses and mushroom operations, shall be permitted within the Hamlet Development designation;

- iv) the implementing zoning by-law shall zone all developed land parcels in the Hamlet Development designation according to their existing use. All undeveloped land parcels will be placed in an agricultural zone which does not permit intensive livestock operations or mushroom farms.”

The intent of these policies is to continue to permit the agricultural use of the Hamlet Development lands pending further studies to determine the preferred type of urban development. However, it is also the policy that more intensive types of agricultural operations not be permitted in order to prevent substantial permanent buildings and/or investments from occurring on these agricultural lands. The Official Plan specifically establishes that new livestock intensive agricultural uses and mushroom farms should not be permitted. Although the policy does not explicitly state that greenhouse operations should not be permitted, it is a known form of intensive farm operation and it is therefore reasonable to interpret that it too should not be permitted. Such an interpretation would be consistent with the intent of the Official Plan.

It is important to note that Section 6.16, entitled “Interpretation”, of the Official Plan states the following:

“The ... text of this Plan should not be interpreted in a legalistic, narrow or strict manner... Appropriate variations may be made by Council, without an amendment to this Plan, where necessary and appropriate, provided the general intent of the Plan is maintained.”

The proposed housekeeping amendment to prohibit new livestock intensive agricultural uses, mushroom farms and greenhouse operations on lands zoned Agriculture (A) within settlement areas would be in conformity with the Official Plan.

Sandwich South Zoning By-law

All lands subject to this housekeeping amendment are currently zoned “Agricultural Zone (A)” in Zoning By-law 85-18 and are specifically located within a settlement area as delineated in the Official Plan. It is proposed that these lands be rezoned to a restrictive “Agricultural Zone (A)” that would permit all the uses currently permitted by the by-law, with the exception of livestock intensive agricultural uses, mushroom farms and greenhouse operations.

Summary

The proposed housekeeping zoning by-law amendment is in keeping with the Provincial Policy Statement, County of Essex Official Plan and the Sandwich South Official Plan. The proposed restrictive Agricultural (A) Zone would allow for the continued use of the lands for agricultural uses, with the exception of livestock intensive agricultural uses, mushroom farms and greenhouse operations, in advance of their conversion to urban uses consistent with relevant policies affecting lands in the various settlement areas.

Based on all of the foregoing, consideration of the proposed housekeeping zoning by-law amendment is warranted. A public meeting to consider the proposed amendment in accordance with the requirements of the *Planning Act* will provide an opportunity to hear concerns and comments, if any, of various stakeholders. These comments and concerns will then be considered as part of a final evaluation of the proposed housekeeping zoning by-law amendment, which will be provided in a subsequent report to Council.

It is noted that due to the COVID-19 global pandemic and related emergency declarations and associated regulations, the holding of public meetings is not currently permitted. A separate Report from Administration is anticipated that will propose an alternative means by which public consultation will take place virtually during the pandemic.

Consultations

None

Financial Implications

None

Link to Strategic Priorities

Applicable	2019-22 Strategic Priorities
<input checked="" type="checkbox"/>	Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
<input checked="" type="checkbox"/>	Ensure that Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.
<input type="checkbox"/>	Integrate the principles of health and wellness into all of Tecumseh's plans and priorities.
<input type="checkbox"/>	Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.
<input type="checkbox"/>	Demonstrate the Town's leadership role in the community by promoting good governance and community engagement, by bringing together organizations serving the Town and the region to pursue common goals.

Communications

Not applicable ☐

Website ☒

Social Media ☒

News Release ☐

Local Newspaper ☒

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

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Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

**Attachment
Number**

**Attachment
Name**

1

Town Wide Official Plan Land Use Map

2

Lands Zoned Agricultural Within Settlement Areas Map