



The Corporation of the Town of Tecumseh

Development Services

To: Mayor and Members of Council

From: Brian Hillman, Director Development Services

Date to Council: January 11, 2022

Report Number: DS-2022-01

Subject: Zoning By-law Amendment (Condition of Consent Application B-13-21)
165 Chene Street
Scheduling of a Public Meeting
OUR FILE: D19 165CHE

Recommendations

It is recommended:

That a by-law having the effect of amending Zoning By-law 1746 by:

- i) rezoning the northern 1185.7 square metre (12,763 square foot) portion of 165 Chene Street from “Residential Zone 3 (R3-3)” to a site-specific “Residential Zone 3 (R3-20)” in order to:
 - a) remove the currently permitted use of an automobile body repair garage in accordance with Condition 5 of Consent Application B-13-21; and
 - b) establish regulations that would permit up to 46.4 square metres (500 square feet) of the existing 230.6 square metre (2,485 square foot) detached accessory structure to be used for a limited range of commercial uses; and
- ii) rezoning the southern 868.6 square metre (9,350 square foot) portion of 165 Chene Street from “Residential Zone 3 (R3-3)” to a revised “Residential Zone 3 (R3-3)” in order to:
 - a) remove the currently permitted use of an automobile body repair garage in accordance with Condition 5 of Consent Application B-13-21; and
 - b) establish a maximum lot coverage of 40% to facilitate the construction of one single-unit dwelling;

in keeping with PBS-2021-45 and DS-2022-01, **be adopted.**

Background

On October 26, 2021, Council held a public meeting in accordance with the provisions of the Planning Act to hear comments on an application to amend Zoning By-law 1746 for a 2054.3 square metre (22,113 square foot) property situated on the west side of Chene Street, approximately 21 metres (68 feet) north of its intersection with Dillon Drive (165 Chene Street), in order to facilitate the creation of one new residential lot and changes to the list of permitted uses (see Attachment 1).

The subject property is currently occupied by a 118.2 square metre (1,273 square foot) single-unit residential dwelling that is part of a tier of single-unit dwellings situated on relatively deep lots fronting on the west side of Chene Street. A 230.6 square metre (2,485 square foot) detached accessory structure that was historically used as an automobile body repair garage is also situated on the subject property. The automobile body repair garage operated from the property, in conjunction with the single-unit residential use, for numerous decades up until the time that the current owner purchased the property in 2020. It should be noted that the use of the property for an automobile body repair garage continues to be permitted and could be reintroduced as the property is site-specifically zoned to legally permit this use.

The subject property is also the subject of Consent Application B-13-21, which was provisionally approved by the Committee of Adjustment at its August 30, 2021 meeting, having the effect of creating the aforementioned new residential lot subject to meeting conditions. One of the conditions of consent requires both the proposed severed and retained lots to be rezoned to remove the currently permitted use of an automobile body repair garage. In addition, the rezoning application is seeking to establish site-specific regulations for a limited range of proposed commercial uses that would occupy a portion of the existing detached accessory structure on the retained lot and to establish a maximum lot coverage of 40% for the proposed severed lot in order to permit the future construction of a new single-unit dwelling.

The purpose of this Report is to summarize the nature of the comments received through the public consultation process and recommend a course of action with respect to the proposed Zoning By-law amendment.

Comments

Comments Received Through Public Consultation Process and Public Meeting

The applicant was the only member of the public to attend the October 26, 2021 virtual public meeting. The Town did, however, receive written comments which expressed the following concerns:

- i) compatibility of and need for proposed small-scale commercial uses within a portion of the detached accessory structure;
- ii) potential soil contamination on the property from the past auto-related use.

The written submissions were included in the October 26, 2021 Public Meeting Council Agenda. Administration offers the following comments with respect to the aforementioned concerns:

Issue 1 – Compatibility and Need of Proposed Commercial Uses

As noted in [PBS-2021-45](#), Section 10.12 of the Official Plan acknowledges that certain lands within the Town have been developed and/or zoned for a use other than that which is permitted by the designations and policies of the Plan. Where these uses have ceased to exist, leaving vacant substantial buildings, the land may be rezoned to permit uses that are as, or more, compatible with the surrounding area provided the proposed uses satisfy the following criteria:

- the building lawfully existed prior to the date of adoption of this Plan;
- the uses to be permitted do not interfere with the desirable development or enjoyment of neighbouring properties;
- the uses do not constitute a danger to surrounding uses and persons because of their hazardous nature or traffic generated; and
- the Zoning By-law reasonably limits the amount of expansion that is to be permitted to ensure that the uses do not become larger than would be appropriate for the area.

At the time of the public meeting, the owner had proposed that a 46.4 square metre (500 square foot) portion of the existing accessory structure be used for the following commercial uses: general/professional offices, pet groomer, baker/chef/caterer, child care provider and a yoga studio. These uses are more compatible with the surrounding area than the current legally permitted use of an automobile body repair garage and do not require as much floor area within which to operate. Upon consideration of the comments received during the public consultation process, Administration believes that, with the exception of “child care provider”, the proposed permitted uses meet the criteria established in section 10.12. In Ontario, child care providers must follow the provisions of the *Child Care and Early Years Act, 2014* (CCEYA) and *its regulations*. The act helps ensure the health and safety of children and child care providers in child care settings. Based on the size/location of the accessory structure and the reduced outdoor yard/open space that will result from the aforementioned severance, Administration believes this use would not be appropriate at this location.

Town Administration has provided a concept that illustrates how parking for the commercial component can be accommodated on site without negatively impacting the surrounding area (see Attachment 2).

With respect to the issue of need, the type, character and small-scale nature of the proposed commercial uses, which are similar to a home occupation, do not present a concern with respect to undermining the viability of existing commercial areas in the Town. The size restriction will prevent the commercial uses from growing to a scale that could be disruptive to the surrounding residential neighbourhood.

Issue 2 – Potential Soil Contamination

With respect to the potential for soil contamination due to the past auto-related use that operated on a portion of the property, it is Town Administration's understanding that the auto-related uses occurred primarily within the existing accessory structure and not outside in the open areas of the property. Town Administration consulted with the Ministry of Municipal Affairs and Housing (MMAH) which, in turn, consulted with the Ministry of the Environment, Conservation and Parks (MECP). Based on these discussions, the size/scale/nature of the past auto-use does not appear to warrant concerns related to soil contamination, which would typically occur on industrial sites of a far greater scale or on sites with underground storage of fuel (such as a gas station).

The MECP advised that a zoning by-law amendment does not trigger mandatory filing of a Record of Site Condition (RSC). The filing of an RSC would be triggered at the time of a building permit by the need for a Phase One Environmental Site Assessment. This, combined with the removal of the proposed child care use which would have included use of outdoor space on a regular basis, leads us to conclude that the issue of potential soil contamination in relation to the proposed rezoning is adequately addressed.

Conclusion

In summary, it is the opinion of the writer, along with Town Administration, based on the results of the public consultation process, that the proposed rezoning is supportable, subject to removing the proposed child care use from the list of uses to be permitted in the detached accessory building.

On the basis of the foregoing, it is the opinion of the writer that the proposed Zoning By-law Amendment is consistent with the Provincial Policy Statement, conforms to the County Official Plan and Tecumseh Official Plan policies and will result in appropriate development that is in keeping with the character of the surrounding lands, will result in the elimination of a currently-permitted use that is deemed undesirable within residential areas and is based on sound land use planning principles.

Accordingly, Town Administration recommends that Council pass a by-law amending Zoning By-law 1746 that will:

- i) rezone the northern 1185.7 square metre (12,763 square foot) portion of 165 Chene Street from "Residential Zone 3 (R3-3)" to a site-specific "Residential Zone 3 (R3-20)" in order to:
 - a) remove the currently permitted use of an automobile body repair garage in accordance with Condition 5 of Consent Application B-13-21; and
 - b) establish regulations that would permit up to 46.4 square metres (500 square feet) of the existing 230.6 square metre (2,485 square foot) detached accessory structure to be used for a limited range of commercial uses; and

- ii) rezone the southern 868.6 square metre (9,350 square foot) portion of 165 Chene Street from “Residential Zone 3 (R3-3)” to a revised “Residential Zone 3 (R3-3)” in order to:
 - a) remove the currently permitted use of an automobile body repair garage in accordance with Condition 5 of Consent Application B-13-21; and
 - b) establish a maximum lot coverage of 40% to facilitate the construction of one single-unit dwelling.

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.

Prepared by:

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Planner

Reviewed by:

Chad Jeffery, MA, MCIP, RPP
Manager Planning Services & Local Economic Development

Reviewed by:

Brian Hillman, MA, MCIP, RPP
Director Development Services

Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

Attachment Number	Attachment Name
1	Property Location Map
2	Parking Area for Small Scale Commercial Uses