



The Corporation of the Town of Tecumseh

Development Services

To: Mayor and Members of Council

From: Brian Hillman, Director Development Services

Date to Council: February 22, 2022

Report Number: DS-2022-04

Subject: Zoning By-law Amendment
Existing Garden Suite Temporary Use Proposed Change to
Permanent Additional Residential Unit (Stand-Alone)
7035 10th Concession
Scheduling of a Public Meeting
OUR FILE: D19 LEON

Recommendations

It is recommended:

That the scheduling of a public meeting, on March 22, 2022 at 5:00 p.m., in accordance with the *Planning Act*, for an application seeking to amend the Zoning By-law 85-18 by rezoning a 9.6 hectare (23.7 acre) parcel of land situated on the west side of 10th Concession Road (7035 10th Concession Road), approximately 600 metres north of its intersection with County Road 8, in order to permit a stand-alone Additional Residential Unit on the property, in accordance with subsection 4.1.2 xii) of the Tecumseh Official Plan, **be authorized**.

Executive Summary

A zoning by-law amendment application has been filed in order to change the zoning pertaining to a 9.6 hectare (23.7 acre) parcel of land situated on the west side of 10th Concession Road (7035 10th Concession Road), approximately 600 metres north of its intersection with County Road 8, in order to permit a stand-alone Additional Residential Unit (ARU) on the property, in accordance with subsection 4.1.2 xii) of the Tecumseh

Official Plan (Tecumseh OP). This Report is requesting the scheduling of a public meeting related to the proposed zoning by-law amendment in accordance with the requirements of the *Planning Act*.

Background

Property Location and Surrounding Land Uses

The subject property is a 9.6 hectare (23.7 acre) agricultural parcel of land situated on the west side of 10th Concession Road (7035 10th Concession Road), approximately 600 metres north of its intersection with County Road 8 (see Attachments 1 and 2). The subject property is currently occupied by a 269 square metre (2,900 square foot) single-unit residential dwelling, a 97 square metre (1,040 square foot) garden suite and four accessory structures. The majority of the property is used for agricultural purposes. A former golf course abuts the property to the west/southwest while the balance of the lands surrounding the subject property are agricultural in nature.

Past Planning Application Approvals

In 2012, the owner of the subject property requested that a garden suite be permitted for a temporary period on the subject property, in accordance with the provisions of Section 39 of the *Planning Act*. The *Planning Act* allows Council to approve, by way of by-law, a garden suite as a temporary use for a period of time not exceeding 20 years. A garden suite is a self-contained dwelling that is typically installed for a temporary period of time in the rear or side yard of a lot that contains an existing, permanent single-unit dwelling. A garden suite is to be designed to be mobile but has all the living arrangements a typical dwelling would have such as a kitchen, living area, bedroom(s), bathroom(s) and storage areas. In addition, garden suites must meet the Ontario Building Code.

Garden suites allow for living arrangements that are usually intended for individuals or couples of a senior age who, for the most part, can live independently but may require some periodic assistance. Typically, the occupants (usually family members) of the associated permanent dwelling provide care and support to those living in the garden suite. The purpose of the garden suite was to provide temporary housing for a family member requiring special support.

Subsequent to a Public Meeting, which did not identify any issues from abutting property owners or other stakeholders, Council supported the application through the passage of Temporary Use By-law No. 2012-63 that permitted the garden suite for an

initial five-year period. The execution of an associated agreement was also approved. The Temporary Use By-law expired on October 9, 2017 and in order for the garden suite to legally continue, the owner filed an application for a three-year extension to the Temporary Use By-law, which was also approved by Council (after a second Public Meeting) by way of Temporary Use By-law 2018-07. The aforementioned three-year extension has since expired and the owner now wishes to maintain the garden suite on the subject property as a permanent ARU in accordance with the ARU policies (subsection 4.1.2 xii) of the Tecumseh OP.

Zoning By-law Amendment Application

As noted, the proposed ARU has been located on the property since 2012 as a permitted temporary garden suite. In order to permit the permanent continuation of the garden suite as a permanent stand-alone ARU, the applicants have applied for a zoning by-law amendment. No changes to the size or location of the ARU are proposed. In order to facilitate this request, the property is proposed to be rezoned into a site-specific Agricultural Zone (A) in accordance with subsection 4.1.2 xii) of the Tecumseh OP.

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*.

There are a number of policies within the PPS that support the applications for the proposed ARU. 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

1.1.1 Healthy, livable and safe communities are sustained by:

...

- b) accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons)...

...

- f) improving accessibility for persons with disabilities and older persons by addressing land use barriers which restrict their full participation in society;

1.4.3 Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents of the regional market area by:

...

b) permitting and facilitating:

1. all housing options required to meet the social, health, economic and well-being requirements of current and future residents, including special needs requirements and needs arising from demographic changes...; and
2. all types of residential intensification, including additional residential units, and redevelopment in accordance with policy 1.1.3.3"

In summary, the PPS encourages and supports the establishment of ARUs and offering a range of housing forms/types to meet expected needs. Based on the foregoing, it is the opinion of the writer that the application to amend the zoning by-law to facilitate the proposed ARU on the subject property is consistent with the PPS.

County of Essex Official Plan

The subject lands are situated within a rural area identified in the County Official Plan ("County OP"). With respect to ARUs, the County OP contains the following policy direction:

"3.2.8 Affordable Housing

The County supports the provision of affordable housing for low and moderate income households through the following policies:

...

- f) The County generally permits second dwelling units within all single detached, semi-detached, and townhouse dwelling units where a residential unit is not permitted in an ancillary structure to those house types on the property. If the principle residential dwelling on the property contains only a single residential unit, then an accessory structure may contain the second dwelling unit on the property.

Local municipal Official Plans and implementing Zoning By-laws will contain detailed policies and provisions relating to second dwelling units which generally support their creation, including but not limited to the following:

- i) Areas of the municipality where second dwelling units would be inappropriate such as floodprone areas or areas with inadequate servicing.
- ii) Minimum unit size, access and parking requirements.
- iii) Whether second dwelling units will be phased into new developments, at the time of development/design/construction.
- iv) The health and safety requirements for second dwelling units to be contained within an accessory structure.
- v) Garden suites.”

Accordingly, it is the opinion of the writer that the application to amend the zoning by-law to facilitate the proposed ARU is in conformity with the County OP.

Tecumseh Official Plan

The subject property designated Agricultural on Schedule “B” of the Tecumseh OP (see Attachment 3). Subsection 4.1.2 xii) establishes the following criteria for the establishment of a stand-alone ARU within the agricultural areas of the Town:

- “xii) a stand-alone ARU, as an ancillary use to a primary single unit dwelling, shall be permitted subject to a Zoning By-law amendment and appropriate zoning regulations being in place. The following criteria will be considered as the basis for all Zoning By-law amendments to permit a stand-alone ARU:
 - a. the ARU is subordinate to the primary dwelling on the lot;

- b. there is no other ARU or garden suite on the property;
- c. the ARU should use the same access as the primary single unit dwelling and be located within the cluster of existing buildings;
- d. the ARU will not be eligible for severance in the future;
- e. there are adequate services including municipal water; and
- f. other requirements such as parking, tree preservation, landscaping and the provision of amenity areas are adequately addressed;"

Based on the foregoing, it is the opinion of the writer that the application to amend Zoning By-law 85-18 to permit an ARU on the subject property conforms to the Official Plan.

Zoning By-law 85-18

The subject property is currently zoned "Agricultural Zone (A)" in Zoning By-law 85-18 (see Attachment 4). The A Zone permits the single-unit dwelling located on the property but currently does not permit an ARU.

Zoning By-law Amendment Procedures in the Tecumseh OP

Section 10.18, Amendment Procedures, of the Tecumseh OP establishes that due regard shall be given to the following matters when contemplating a zoning by-law amendment:

- i) the degree of conformity of the proposed amendment to the general intent and philosophy of this Plan, particularly the planning principles as set out in Section 2.3, and consistency with provincial policy;
 - the proposed amendment conforms to the policies of the Official Plan and, as noted earlier in this Report, is consistent with the PPS. It is important to note that the *Planning Act* also clearly establishes that ARUs are to be permitted;
- ii) the availability and suitability of land already designated for the proposed use, and the need for (or market feasibility of) the proposed use;

- the subject lands are designated to permit the use proposed by the application, subject to a zoning by-law amendment and the policies established for ARUs in agricultural areas. The rezoning simply implements the policies of the Official Plan.
- iii) the compatibility of the proposal, or the adequacy of proposed mechanisms for achieving compatibility, with adjacent and planned uses;
- the proposed ARU has existed on the site since 2012 as a garden suite and over that time, no concerns or issues with respect to compatibility have been identified.
- iv) the ability of the Town's infrastructure to accommodate the proposal;
- all utilities/services (gas, hydro, municipal water, etc.) are already in place and were implemented in through the previous planning approvals noted above. The ARU will continue to be serviced by an existing on-site septic system that was approved by the Town.
- v) The adequacy of the transportation system to accommodate the proposal;
- the continued use of the garden suite as a permanent stand-alone ARU will not create any adverse impacts on the operation of the abutting roadway network.

Evaluation of Proposed Application Against Draft ARU Guidelines

A comparison of the existing garden suite and the draft town-wide ARU guidelines is provided in the table below. The proposed site-specific zoning will establish zoning regulations that have the effect of permitting the ARU and establishing zoning provisions for the ARU. It should be noted that these zoning provisions (i.e. setbacks, maximum size, etc.) are consistent with the previously noted Temporary Use By-law.

Site Design Characteristic	Administration's Draft Guidelines for Stand Alone ARUs in Agricultural Area	Existing Garden Suite / Proposed ARU
General Location	<p>Permitted in rear and interior side yards.</p> <p>Must be within 30 (98 feet) metres of primary dwelling and no closer than 3 (9.8 feet) metres.</p>	<p>Located in rear yard, approximately 7 metres (22.9 feet) from main dwelling.</p>
Setbacks	<p>Minimum 1.5 metres (4.9 feet) from side/rear lot lines.</p>	<p>Closest point to a side/rear lot line is approximately 41 metres (134 feet).</p>
Size	<p>Maximum GFA of 100 sq. m. (1,076 sq. ft.) and no greater than 50% of primary dwelling.</p>	<p>97 sq. metres (1,040 sq. feet)</p> <p>36% of GFA of primary dwelling.</p>
Height	<p>Maximum of 6.5 metres (21.3 feet).</p>	<p>3.8 metres (12.6 feet).</p>
Municipal Services	<p>One water service per lot for main dwelling and ARU.</p> <p>ARU on a private septic system must meet the requirements of the Ontario Building Code (OBC).</p>	<p>Water and septic system already existing as approved by Town through previous planning approval process.</p>

Site Design Characteristic	Administration's Draft Guidelines for Stand Alone ARUs in Agricultural Area	Existing Garden Suite / Proposed ARU
Parking	1 space / ARU.	1 space provided.

The proposed ARU's location, design, size and setbacks from lot lines are consistent with the draft ARU Guidelines.

Summary

The proposed zoning by-law amendment is consistent with the PPS and the Planning Act and conforms to both the County OP and Tecumseh OP. Based on the foregoing, consideration of the proposed site-specific zoning by-law amendment is warranted. A public meeting to consider the rezoning in accordance with the requirements of the *Planning Act* will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and public agencies. If issues arise at the Public Meeting that are not immediately resolved, a summary of the issues, along with a final recommendation on the application will follow by way of a future Planning Report. If, however, all issues are resolved, a Zoning By-law amendment by-law will be brought forward for Council's consideration at a subsequent Council Meeting.

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 checked="" 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 and Surrounding Land Uses Map
2.	Property Location Map – Detail View
3.	Official Plan Map
4.	Zoning Map