



The Corporation of the Town of Tecumseh

Development Services

To: Mayor and Members of Council

From: Brian Hillman, Director Development Services

Date to Council: June 25, 2024

Report Number: DS-2024-20

Subject: Zoning By-Law Amendment
12207 County Road 42
Results of Public Meeting and Final Recommendation
OUR FILE: D19 12207CR42

Recommendations

It is recommended:

That DS-2024-20 entitled “Zoning By-Law Amendment, 12207 County Road 42, Results of Public Meeting and Final Recommendation”, **be received**;

And that a by-law having the effect of amending Zoning By-law 85-18 by rezoning a 0.50-hectare (1.23-acre) parcel of land located on the south side of County Road 42, approximately 60 metres (196 feet) west of its intersection with Lesperance Road (12207 County Road 42), from “Residential Zone 1 (R1)” to a site-specific “Residential Zone 2 (R2-6)” to permit the construction of a 3-storey, 23-unit, residential development and establish site-specific lot provisions, in keeping with DS-2024-20, **be adopted**.

Executive Summary

A Zoning By-law amendment application was submitted to facilitate the development of a 0.50-hectare (1.23-acre) parcel of land located on the south side of County Road 42, approximately 60 metres (196 feet) west of its intersection with Lesperance Road (12207 County Road 42). The Owner is proposing the construction of a 3-storey, 23-unit residential development, with associated indoor/outdoor parking and amenity areas.

Report [DS-2023-21](#) was received by Council at the October 24, 2023 Regular Council Meeting and at the November 14, 2023 Public Meeting. In accordance with the direction of DS-2023-21, this Report summarizes the comments received at the Public Meeting, provides administrative responses to those comments along with relevant planning analysis and makes a final recommendation to approve the application and adopt the associated Zoning By-law amendment.

Background

Planning Application and Property Location

Pillon Abbs Inc., on behalf of the Owner filed an application with the Town to amend Zoning By-law 85-15 for a 0.50-hectare (1.23-acre) parcel of land located on the south side of County Road 42, approximately 60 metres (196 feet) west of its intersection with Lesperance Road (12207 County Road 42) ("subject land") (see Attachment 1).

The application proposed the rezoning of the lands from "Residential Zone 1 (R1)" to a site-specific "Residential Zone 2 (R2-6)" to permit the construction of a 3-storey, 23-unit, residential development and establish site-specific lot provisions (see Attachments 2 and 3).

Public/Agency Consultation Process

On November 14, 2023, Council held a public meeting in accordance with *The Planning Act* to hear comments on the proposed rezoning. The public meeting was attended by the Owner, their consultants and residents from the surrounding neighbourhood.

Concerns were raised by surrounding property owners, both at the public meeting and through the submission of written correspondence, with respect to the following issues: compatibility with existing neighbourhood, housing type, adequacy of municipal infrastructure, proposed height, pedestrian safety, parking/traffic, crime/theft, adequacy of nearby schools and property values. The purpose of this Report is to summarize the comments received at the Public Meeting and provide administrative responses to those comments along with relevant planning analysis.

Comments

Issues Raised Through Public/Agency Consultation Process

The issues raised by the public, categorized by theme, and Administration's responses are provided below. It should also be noted that the Owner's Planning Consultant has also provided a response to the comments raised (see Attachment 4).

Issue 1: Need for this Type of Development at this Location

Comments Provided

- Apartment dwellings of this nature do not belong at this location. They should be located in abutting municipalities.

Administration's Response

The Provincial Policy Statement (PPS), the County of Essex Official Plan ("County OP") and the Tecumseh Official Plan ("Tecumseh OP") all establish a strong case for residential infill and intensification and providing for a mix and range of housing types and tenures. The Town's current housing mix is dominated by low density, single unit detached dwellings. Despite a recent trend toward residential intensification within the Town, single unit detached dwellings continue to represent approximately 80 percent of the Town's housing stock.

A diverse housing stock is essential to meeting the varied needs of all citizens throughout the community and its neighbourhoods. For instance, the aging population (which is a growing segment of the population) will not be entirely well served by the existing predominately single unit detached housing supply. Accordingly, a greater diversity of smaller units requiring less maintenance will be necessary. The subject property is adjacent a neighbourhood park and is within walking distance of McAuliffe Park, schools and nearby commercial areas.

The subject property has direct access to County Road 42 which has sidewalks and cycling facilities. The Town's Transportation Master Plan envisions transit to be extended to the subject property as more development of the type proposed is realized.

Further, although not considered to be affordable in the context of the definition contained in the PPS, the subject semi-detached dwelling units offer a form of housing that will be more attainable to a broader segment of the population and is not currently available in the surrounding area.

In summary, it is the opinion of the Town Administration that there is a need for this type of housing and that the proposed location is suitable.

Issue 2: Compatibility with Surrounding Neighbourhood

Comments Provided

- The residential development is not compatible with abutting lands.
- Three-storey height will reduce privacy of existing homeowners.
- The quality of life of abutting landowners will be lowered and increased occurrences of noise and light will occur. Conversely, existing businesses in the surrounding area create noise and light that are not conducive to having abutting residential uses.
- Abutting businesses will be negatively affected as a result of increased crime and theft as a result of the increased residents living in the area.

Administration's Response

As a general tenet of planning, residential uses are compatible with other residential uses. Multi-unit residential dwelling units adjacent to single-unit detached dwellings is a built form and land use mix that currently exists in numerous areas of the Town and is a common land use pattern in urban areas throughout the region, the province and beyond.

It is a commonly held planning principle that being "compatible with" does not equate to "being the same as" or even "being similar to". Being "similar to" implies having a resemblance to another thing; they are like one another, but not completely identical. Being "compatible with" fundamentally implies being capable of existing together harmoniously. Appropriately integrated intensification is encouraged in all areas where it can be adequately serviced, projected traffic generation can be accommodated by the existing transportation network and compatibility between uses can be achieved. The issue of servicing and transportation issues are addressed later in this Report.

The evaluation of residential land use compatibility involves consideration of issues such noise, traffic, safety, privacy or intrusive overlook, shadowing and building scale, height and massing. Section 3.18, Land Use Compatibility, of the Tecumseh OP lists these issues as matters to be assessed when introducing infill development into existing stable residential areas. Administration has reviewed the proposed development in the context of this section and has determined that these issues have been adequately addressed by the proposed design and corresponding rezoning.

Potential light pollution impacts from the proposed development will be regulated through the requisite site plan control process by way of the approval of a Photometric Plan which will establish permitted lighting levels for all exterior lighting (on the building

and in the associated parking and open space areas). The site will be designed to prevent emissions onto abutting residential properties and roadways.

With respect to noise impacts, there is no correlation between the type of residential dwelling and noise levels generated by it. Residents living in the apartment will be subject to the same regulations established in the Town's Noise By-law that would apply to abutting residential properties.

With respect to the concern of potential negative effects of the development on abutting businesses, there is no correlation between increasing the population in an area and the increase in crime/theft occurrences. As mentioned at the Public Meeting, one of the key principles of Crime Prevention Through Environmental Design (CPTED) is natural surveillance. CPTED is a multi-disciplinary approach to crime prevention that uses urban and architectural design and the management of built and natural environments. Additional residents living in an area creates "more eyes on the street" which in turn creates a safer area. It could therefore be argued that 23 additional dwellings at this location will be a deterrent to crime.

Taking into account all of the foregoing, it is Administration's opinion that the proposed development is compatible – it is capable of existing harmoniously with existing land uses in the surrounding neighbourhood.

Issue 3: Building Height / Intrusive Overlook

Comments Provided

- Three-storey height will reduce privacy of existing homeowners.
- Building is too high and too close to the rear lot line/rear yards of abutting property owners.

Administrative Response

With respect to the potential for loss of privacy and intrusive overlook, the Owner has prepared a Viewshed Analysis that provides a representation of the views from the rear third-floor balconies of the proposed development to the residential properties that abut to the south (see Attachment 5). Of the 23 proposed units, 13 are located on the south side of the building (facing the residential properties to the south) and five of those 13 are located on the third floor. The images provide the current views along with the future views from the third-floor balconies once the proposed landscaping is incorporated as part of the redevelopment of the lands.

The proposed landscaping includes 11 trees planted within the side and rear yard where existing residential properties abut, as shown on the preliminary landscape plan (see Attachment 6). Five of the proposed trees are to be located directly to the south of the proposed apartment. These five trees are to be situated approximately 3.6 to 4.0 metres (12 to 13 feet) from the south lot line (rear lot line) and within the prescribed working corridor of the Klondyke Drain. The Klondyke Drain is a municipal drain that is enclosed with a 1600 mm (64 inch) diameter corrugated steel pipe that is generally aligned along the rear lot line of the subject property. In addition, two trees are proposed on the south side of the parking lot just outside of the working corridor and four more trees are strategically located along the southerly and easterly façades of the building. It should also be noted that an additional 19 trees (a combination of deciduous and coniferous trees) are proposed to be planted in the front yard abutting County Road 42.

Administration has reviewed the Viewshed Analysis and proposed landscape plan with the Town arborist to confirm the proposed future views can be achieved based on the species of trees proposed (adjacent to the rear lot line) and has confirmed that the scenario depicted in the analysis will be able to be fully achieved within approximately five to ten years. Although the views are from the perspective of the five third-floor units, the remaining eight units on the first and second floor on the south side of the building will also have restricted views to the abutting southerly properties.

To ensure that the proposed landscaping is spaced properly and is of an appropriate size at planting, the corresponding site plan control agreement will require that a final Landscape Plan be prepared and approved by the Town. The final Landscape Plan will detail the required location of the proposed trees. The associated site plan control agreement, which will be registered on the title of the land, is proposed to contain terms that establish that the trees will be maintained in perpetuity. For clarity and certainty, the agreement will also establish that any tree requiring replacement due to any damage resulting from future municipal works related to the maintenance and/or replacement of the abutting enclosed municipal drain to the south will be undertaken by and at the sole expense of the Owner. It is the opinion of Administration that the five trees within the working corridor of the Klondyke Drain will need to be removed during the eventual replacement of the existing drain enclosure pipe.

With respect to the height of the building, the proposed apartment, at 10.8 metres (35.4 feet), is only marginally above the current R2 zone maximum height regulation of 10.0 metres (32.8 feet) that currently applies to the subject and surrounding properties.

With respect to the building being too close to the abutting residential properties to the south, Town Administration and the Owner met with the County of Essex to discuss shifting the proposed building closer to County Road 42 in order to create additional separation from these dwellings. As a result of those meetings, the Owner was able to shift the building approximately 1.0 metre (3.2 feet) closer to the front lot line, thereby

creating additional separation from the rear lot line/abutting property owners to the south (see Attachment 2 mentioned above). This shift results in a front yard depth of 7.6 metres (24.9 feet) and a rear yard depth of 11.6 metres (38.1 feet), which is suitable based on a typical minimum rear yard standard.

In addition, due to the substantial rear yard depths of the four residential lots that abut the subject property to the south, the proposed building will be, at minimum, 32.8 metres (107.6 feet) away from the closest dwelling that abuts to the south and up to 70.1 metres (229.9 feet) from the farthest dwelling.

Taking into account the preceding, it is Administration's opinion that the proposed development, as redesigned (setback distances and landscaping), provides adequate separation distances to abutting residential properties and includes appropriate mitigation measures to address concerns related to intrusive overlook. These setback distances are deemed appropriate in order to provide the necessary mitigation of issues related to privacy, shadow effect, light pollution and visual impact.

As further support for the proposed setback distances, it is noted that similar residential development scenarios (multi-storey apartment buildings situated adjacent to and in close proximity to low density/low profile residential development) exist in multiple other areas of Tecumseh and Essex County municipalities. This type of development scenario is relatively common in fully serviced urban areas.

Issue 4: Traffic Impact of the Proposed Development and Pedestrian Safety

Comments Provided

- The development will increase traffic in the area and will affect the operation of County Road 42.
- The development will create a safety issue with respect to pedestrians crossing County Road 42, particularly children.
- The development does not provide adequate parking for residents and visitors.

Administration's Response

The Owner has provided expert traffic analysis that supports the proposed development. The analysis took into account the upcoming reconstruction of County Road 42 and the new road cross-section that will consist of five vehicular lanes, bike lanes and sidewalks. The new sidewalks will offer pedestrians the ability to safely walk along County Road 42 and cross at appropriately designated intersections along the roadway.

Town Administration has reviewed the document and concurs with its findings. In addition, the County of Essex has not identified any traffic concerns with respect to the proposed development. Administration is satisfied that the existing transportation network is adequate to accommodate the anticipated increase in traffic resulting from the proposed development and that adequate infrastructure will be available along County Road 42 for pedestrians and cyclists.

The proposed development will provide 35 on-site parking spaces thereby complying with the standard of 1.5 spaces per dwelling unit. Accordingly, parking demand for the development should be adequately accommodated by the amount of spaces proposed. In fact, it is believed that the 1.5 spaces per dwelling unit standard may be high given the type of household for which the housing is being designed and marketed – singles, young couples and empty-nesters.

Based on the foregoing, Administration believes that the proposed development will not cause an unacceptable increase in traffic flow, pedestrian safety, nor parking deficiencies.

Issue 5: Municipal Infrastructure

Comments Provided

- Municipal infrastructure may not be able to support the development.

Administration's Response

As noted in Report DS-2023-21, a Sanitary Sewer Assessment and Functional Servicing Report have been prepared for the development. Town Administration has reviewed these documents and concur with their findings. The proposed development will be serviced with full municipal services. It is further noted that all final servicing requirements for the proposed development will be addressed through the site plan control process, including stormwater management addressing quality and quantity control.

Issue 6: Property Values

- Proposed development will devalue the abutting properties.

Administration's Response

There is no professional evidence supporting this assertion nor is it an accepted independent variable used in professional land use planning analysis. It is appropriate, however, to consider issues of compatibility, good urban design and proper integration in the process of evaluating potential impacts. It continues to be our professional

planning opinion that the proposed residential development is compatible with the surrounding land uses, represents good urban design and can be properly integrated into the surrounding area.

Issue 7: Adequacy of Nearby Schools

- The nearby schools are at capacity and will not be able to accommodate the increased student population that will result from the development.

Administration's Response

As part of all zoning by-law amendment applications, local School Boards are consulted to obtain any comments they may have with a proposed development. No concerns with the development, or the ability to accommodate any potential increase in student enrolment as a result of the development, were received from the School Boards.

Issue 8: Negative Affects to Cranbrook Park

- The proposed development will have a parking area abutting the existing Cranbrook Park.

Administration's Response

As part of the site plan control approval process, Administration will require a parkland contribution conveyance from the subject property where it abuts Cranbrook Park to facilitate an expansion of the existing park and provide direct pedestrian access to the park via County Road 42. This will facilitate a more accessible park and potential future upgrades/improvement to the park because of the increase in overall land area of the park.

Planning Policy Analysis

An overview of the relevant planning policies contained within the PPS, the County of Essex Official Plan ("County OP") and the Tecumseh OP was provided in Report DS-2023-21. A summary of the planning policy analysis provided in that Report is provided below.

Provincial Policy Statement

The PPS encourages and supports development on lands identified for urban growth in settlement areas. It also establishes that the Town should be supporting and promoting residential infill development that results in compact built form and makes more efficient use of existing services while offering a range of housing forms/types/tenures to meet

expected and varied demands of a diverse population such as those of the growing senior cohort within the Town.

The proposed residential development is consistent with the foregoing policies. It provides an alternative form of housing at a density that provides for a more compact built form. The proposed development is also a means of achieving intensification in accordance with the definition contained in the PPS. Based on the foregoing, it is the opinion of the writer that the application is consistent with the PPS.

County of Essex Official Plan

The subject property is within an identified Primary Settlement Area of the County OP. The goals and policies of the County OP encourage a range of residential development within identified settlement areas such as the fully serviced urban areas of Tecumseh. Accordingly, the proposed development conforms to the goals and policies of the County OP.

Tecumseh Official Plan

The Official Plan provides broad support for the type of residential development proposed. The subject property is currently designated "Residential" in the Tecumseh OP. The type of dwelling proposed is considered a medium-density form of a residential land use and is contemplated by this designation provided it can be appropriately integrated with the existing and proposed development pattern by meeting the applicable policies of the Plan.

The proposed development conforms to the criteria established in the Official Plan with respect to medium-density development and as noted earlier in this Report and meets the intent of the compatibility criteria contained in subsection 3.18.

In order to ensure compatibility and the implementation of proper urban design features, the subject property will require approval of a site plan control agreement prior to any development taking place.

Amendment Procedures in the Tecumseh Official Plan

Section 10.18, Amendment Procedures, of the Tecumseh OP establishes that due regard shall be given to the following matters when contemplating an Official Plan and/or 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;

- as noted earlier in this Report, it is the opinion of the writer that the proposed amendment is consistent with the PPS. Further, the proposed amendment conforms to the general intent and philosophy of the Tecumseh OP by directing development to an identified settlement area and by supporting the concept of creating mixed-use, compact and pedestrian-oriented development within designated and fully serviced settlement areas. The proposed residential use of the property is in keeping with relevant policies of the Official Plan.
- 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 Residential which permits medium-density residential development subject to meeting prescribed criteria. It has been demonstrated earlier in this Report that these criteria have been met. Accordingly, this rezoning would have the effect of implementing 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;
 - as noted earlier in this Report, it is Administration's opinion that the proposed residential development is compatible with the adjacent residential uses and surrounding neighbourhood.
- iv) the ability of the Town's infrastructure to accommodate the proposal;
 - as noted in DS-2023-21, the following comments have been provided by Town Administration related to municipal infrastructure:
 - i) the proposed development will be serviced with full municipal services. A sanitary sewer assessment was completed for the proposed development which confirmed that the proposed development can be accommodated within the existing sanitary sewer system. Public Works and Engineering Services indicates that it has no concerns with the development and its ability to be serviced by municipal infrastructure. Municipal sanitary sewers and water services are currently available to the property and can accommodate the proposed development;
 - ii) in terms of stormwater services, stormwater management will be required for quality and quantity control, the details of which will be addressed through the site plan control process.

- v) the adequacy of the transportation system to accommodate the proposal;
 - as noted earlier in this Report, Town Administration has reviewed the Traffic Impact Study submitted in support of the applications and is satisfied with its findings.

Conclusion

In summary, it is the opinion of the writer that the proposed zoning by-law amendment to allow a 3-storey, 23-unit residential dwelling is consistent with the PPS, conforms to the County OP and Tecumseh OP and will result in appropriate development that is based on sound land use planning principles. Accordingly, Town Administration recommends that Council pass a by-law amending Zoning By-law 85-18 permitting the development of the subject property for the proposed residential use, in accordance with Report DS-2024-20.

Consultations

Community & Recreation Services
Public Works & Engineering Services
County of Essex

Financial Implications

None.

Link to Strategic Priorities

| Applicable | 2023-2026 Strategic Priorities |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | Sustainable Growth: Achieve prosperity and a livable community through sustainable growth. |
| <input checked="" type="checkbox"/> | Community Health and Inclusion: Integrate community health and inclusion into our places and spaces and everything we do. |
| <input type="checkbox"/> | Service Experience: Enhance the experience of Team Tecumseh and our citizens through responsive and respectful service. |

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. | Property Location Map |
| 2. | Proposed Site Plan |
| 3. | Proposed Architectural Rendering |
| 4. | Owner's Planning Consultant's Response to Comments Raised |
| 5. | Viewshed Analysis |
| 6. | Preliminary Landscape Plan |