



## Report to Council

Department: Development Services

Division: Planning

Date: December 21, 2020

Prepared by: Rita Jabbour, RPP, Manager, Planning Services

Report Number: PLANNING2020-29

Subject: Site Specific Zoning Amendment and Site Plan Control Approval (1110 Ridge Road, Colchester South, Ward 3)

Number of Pages: 8 with attachments

### Recommendation(s)

**That** Planning report PLANNING2020-29 entitled Site Specific Zoning Amendment and Site Plan Control Approval (1110 Ridge Road, Colchester South, Ward 3) prepared by Rita Jabbour, RPP, Manager, Planning Services dated December 21, 2020 be received, and

**That** Bylaw 1978, permitting the construction of two (2) new ancillary dwellings to accommodate the housing of farm help; and, the use of the existing single detached dwelling(s) to accommodate the housing of farm help, be adopted, and

**That** Bylaw 1979, being a Bylaw to enter into a Site Plan Control Agreement between the Corporation of the Town of Essex and Upper Canada Growers (UGC) Land INC for the establishment of two (2) ancillary dwellings for the accommodation of housing farm help at 1110 Ridge Road, be executed and registered.

## Purpose

To recommend adoption of a site specific zoning amendment to allow for the use of the existing single detached dwelling(s) and the construction of two (2) new ancillary dwellings to accommodate the housing of farm help at the property municipally known as 1110 Ridge Road in the former township of Colchester South (Ward 3), and obtain Council's authorization to execute a Site Plan Control Agreement for the two (2) new ancillary dwellings.

## Background and Discussion

An application for a site specific zoning amendment to the Comprehensive Zoning Bylaw, Bylaw 1037, together with an application for Site Plan Control approval, was received by the Municipality on November 27, 2020 for the agricultural lands located at 1110 Ridge Road in the former township of Colchester South (Ward 3), herein referred to as the "Subject Lands". Upper Canada Growers (UCG) Land INC, herein referred to as the "Applicants", are the owners of the Subject Lands. A location map of the Subject Lands is provided below:



The Subject Lands measure +10 hectares (+26 acres) in total land area. The Lands are designated "Agricultural" on Schedule A-3 of the Town of Essex Official Plan and are zoned Agricultural District 1.1 (A1.1) for general agriculture and farm production support activities on Map 15 of Bylaw 1037.

In accordance with the attached site plan, the Subject Land is occupied by the following:

- two (2) existing single detached dwellings;
- one (1) agricultural outbuilding;
- one (1) warehouse/cooler;
- one (1) accessory building;
- several polyhouses (greenhouses)

The subject lands are located primarily in an agricultural district where the predominate land use is agricultural. Lands located to the East of the property are designated as Provincially Significant Wetland Areas (W1.1) and Provincially Significant Natural Environment Areas (NE1.1). Directly abutting the subject lands and across the street, are two residential dwellings on residential sized lots.

### The Proposal

The Applicants are requesting a site specific zoning amendment to Bylaw 1037 for the Subject Lands to permit the following:

- The construction of two (2) new ancillary dwellings to accommodate the housing of farm help, and,
- The use of the existing single-detached dwelling(s) to accommodate the housing of farm help.

The dwellings will be approximately +208 square metres and will be no greater than one (1) storey in building height (14 feet). Each housing unit will accommodate up to sixteen (16) seasonal farm labourers and will comply with all conditions required by the Windsor Essex

Health Unit, provincial fire safety standards and the Federal government's foreign seasonal housing criteria.

(**Note:** A +3478 square metre greenhouse is also proposed but is **not** subject to a zoning bylaw amendment because it is a permitted agricultural use within the A1.1 zoning district.)

**Any Bylaw passed under Section 34 of the *Planning Act* such as Bylaw 1037, may be amended to allow for uses that are not permitted in the respective zoning district so long as the new use is permitted under the Official Plan for the area in which the subject property is designated.**

#### Proposal Conformity with Town of Essex Official Plan

In accordance with the Town of Essex Official Plan, only one (1) dwelling unit will be permitted per lot in the Agricultural district. One (1) or more ancillary dwellings on an operating farm for the purposes of housing farm help may be permitted by site-specific zoning by-law amendment and site plan control approval, where:

- The farm operation is of such a size and nature that this assistance is required and residential accommodation needs to be located on or close by the farm, and
- The ancillary dwellings are located on the lot and accessed in such a way to prevent the creation of a severable residential lot in the future.

Under the Town's Zoning Bylaw, Bylaw 1037, an *ancillary use* is defined as a use which complements or otherwise provides a service to the main uses of the zoning district in which it is located. A *dwelling* is defined as a building or structure that is occupied in whole or in part, for the purposes of human habitation.

The Subject Lands are currently being utilized for wholesale fruit tree production, more specifically, the growing of apple trees. An agricultural operation is a permitted use within the A1.1 zoning district and includes within its definition: the production of agricultural crops and activities that are a necessary but ancillary part of an agricultural operation (p. 19, Bylaw 1037).

The Applicant also owns an adjoining parcel of agricultural land located at o County Road 50 East which forms part of their agricultural operation. The adjoining parcel is +44 hectares (+111 acres) in total land area. In total, the applicant owns 54 hectares (135 acres) of agricultural land within the Town of Essex.

The applicant's existing housing no longer complies with provincial and federal standards for foreign seasonal housing. Additionally, there is a lack of available rental housing in the immediate vicinity of the farm.

In accordance with the attached site plan, the ancillary dwellings will be located to the rear of the existing warehouse and be accessed via an existing access area off of Ridge Road, thus preventing the severability of the dwellings in the future.

#### December 21, 2020 Statutory Public Meeting

A statutory public meeting was held on Monday December 21 through virtual means to hear public comments on the application prior to Council rendering a decision on the application. One (1) written comment was received in advance of the meeting from members of the public and one (1) delegation presented oral comments other than the Applicant.

In their submission, the delegate had concerns about the ancillary dwellings conformity with Federal and Provincial criteria; the need to locate the dwellings close by the farm; whether the application was going to be setting a precedent; the number of persons per dwelling; and, sanitation requirements. Additionally, the delegate had concerns with the distance between the existing wind turbine and the dwellings; the impact of noise from the existing compressors serving the cooler in the warehouse; and zoning requirements for a laboratory. In response, the following is noted:

- The applicant requires the construction of the dwellings as a result of changing housing criteria for foreign seasonal workers and a lack of available rental housing in the vicinity. The Site Plan Control process does not involve the evaluation of interior

layouts, however the applicant will be responsible for applying for a building permit, which will ensure all applicable regulations and Building Code requirements for the proposed development are upheld;

- Each proposal is evaluated based on the criteria set out in the Town of Essex Official Plan;
- Each unit will accommodate up to sixteen (16) persons;
- The dwellings will need to be serviced by a new private septic system. A septic permit will be required;
- The proposed dwellings will be within 550 metres of the commercial wind turbine at 1040 Ridge Road. Bylaw 1978 makes provisions for relief of this requirement to include a dwelling within 530 metres of the wind turbine and in accordance with the submitted site plan. In justifying the reduction, Council should note that the dwellings will only be utilized on a seasonal basis and need to be located behind the warehouse to prevent severability.
- Under the Farming and Food Protection Act (1998), a farmer is not liable for any nuisance to any person for a disturbance resulting from an agricultural operation carried on as a normal farm practice (section 2).
- The definition of an Agricultural Operation includes activities that are a necessary but ancillary part of that operation. The laboratory is an ancillary use and is permitted as an agricultural operation under the A1.1 zoning.

As a result of circulation, comments were also received from the following Departments and agencies on the Zoning Amendment and Site Plan:

- Essex Fire – No objections assuming there is acceptable access for fire apparatus to the future bunkhouse
- Department of Infrastructure Services –Units will need to be supplied with water from the existing plumbing on site. No additional water meter will be provided
- Essex Region Conservation Authority –No Objections

Bylaw 1978, adds the following uses as additional uses to the Subject Lands:

For the lands municipally known as 1110 Ridge Road, the use of the existing dwelling(s) and two (2) ancillary dwellings to accommodate the housing of farm help shall be permitted in accordance with the site plan dated November 13, 2020 and adopted by Bylaw 1979, and subject to the following provisions:

- i. the height of the ancillary dwellings shall not exceed one (1) storey (14 metres)
- ii. And, the ancillary dwellings shall be permitted within 530 metres of a commercial wind turbine.

Bylaw 1979 and the accompanying Site Plan Control agreement includes general provisions respecting the construction and maintenance of the development, the obtainment of applicable permits, and special provisions respecting the supply of water and access for fire apparatus.

## **Financial Impact**

None.

## **Consultations**

Kevin Girard, P.Eng, MBA, Director, Infrastructure Services

Jason Pillon, Assistant Deputy Fire Chief –Prevention/Public Education

Vitra Vimalananthan, Resource Planner, Essex Region Conservation Authority (ERCA)

## Link to Strategic Priorities

- ☐ Manage, invest and plan for sustainable municipal infrastructure which meets current and future needs of the municipality and its citizens.
- ☐ Create a safe, friendly and inclusive community which encourages healthy, active living for people of all ages and abilities.
- ☐ Provide a fiscal stewardship and value for tax dollars to ensure long-term financial health to the municipality.
- ☒ Manage responsible and viable growth while preserving and enhancing the unique rural and small town character of the community.
- ☐ Improve the experiences of individuals, as both citizens and customers, in their interactions with the Town of Essex.
- ☐ Improve the Town's capacity to meet the ongoing and future service needs of its citizens while ensuring the corporation is resilient in the face of unanticipated changes or disruptions.



## Report Approval Details

Document Title:	Site Specific Zoning Amendment and Site Plan Control Approval (1110 Ridge Road, Colchester South, Ward 3).docx
Attachments:	<ul style="list-style-type: none"><li>- Site Plan.jpg</li><li>- Bylaw 1978.docx</li><li>- By-law 1979 and Site Plan Control Agreement.docx</li></ul>
Final Approval Date:	Dec 16, 2020

This report and all of its attachments were approved and signed as outlined below:



**Lori Chadwick, Director, Development Services - Dec 16, 2020 - 1:59 PM**



**Chris Nepszy, Chief Administrative Officer - Dec 16, 2020 - 1:59 PM**