



Report to Council

Department: Development Services
Division: Planning
Date: April 6, 2021
Prepared by: Rita Jabbour, RPP, Manager, Planning Services
Report Number: PLANNING2021-07
Subject: Site Specific Zoning Amendment: o County Road 50 East (ZBA-01-21) and 3900 North Malden Road (ZBA-02-21) and o South Talbot Road (ZBA-03-21)
Number of Pages: 12 including attachments

Recommendation(s)

That Planning-2021-07 entitled Site Specific Zoning Amendment: o County Road 50 East (ZBA-01-21) and 3900 North Malden Road (ZBA-02-21) and o South Talbot Road (ZBA-03-21) prepared by Rita Jabbour, RPP, Manager, Planning Services dated April 6, 2021 be received,

That Bylaw Number 2005, being a Bylaw to amend By-law Number 1037 for the lands comprising lots 40-52 on Registered Plan Number 1390 be adopted,

That Bylaw Number 2003, being a Bylaw to amend By-law Number 1037 for the property at 3900 North Malden Road be adopted, and

That Bylaw Number 2004, being a Bylaw to amend Bylaw Number 1037 for the lands comprising Parts 1 and 2 on 12R28489 be adopted.

Purpose

To recommend adoption of three (3) site specific zoning amendments for the lands comprising lots 40-52 on Registered Plan Number 1390; the lands located at 3900 North Malden Road; and, for the lands comprising Parts 1 and 2 on 12R28489. The zoning amendments are required to permit at the respective locations: residential infilling for four (4) residential lots; the use of the existing single-detached dwelling to accommodate the housing of farm help; and, the development of a motor vehicle dealership.

Background and Discussion

An application for three (3) site specific zoning amendments to the Comprehensive Zoning Bylaw, Bylaw 1037 were received at the Town of Essex for the vacant residential lands located on the west side of Breezeway Drive (just south side of County Road 50 East) and identified as Lots 40-52 on Registered Plan 1390 in the former township of Colchester South (Ward 3) ; the agricultural lands on the north side of North Malden Road and known municipally as 3900 North Malden Road in the former township of Colchester North (Ward 2); and, the vacant industrial lands on the north side of South Talbot Road and identified as Parts 1 and 2 on 12R28489 in the Essex Centre (Ward 1).

Lots 40 to 52 on Registered Plan 1390 (ZBA-01-21)

The subject lands are 0.8 hectares (2 acres) in total land area. They are designated "Lakeshore Residential" on Schedule A-3 of the Town of Essex Official Plan and is zoned Residential District 1.1 (R1.1) for low density housing on urban lots on Map 18 of Bylaw 1037.

The Subject Lands are vacant and are currently being utilized as an accessory use to the Kiwanis Camp: a campsite for youth located to the west of the subject lands. The lands are located within a residential district and are also in proximity to the Erie Shores Campground. The campground contains a provincially significant Wetland and area of natural environment, however, the subject lands are **not** within 120 metres of these features. The subject lands are

within 120 metres of a natural heritage feature located on the lands to the south (Note: Adjacent lands are defined as lands within 120 metres of a significant natural feature under the Official Plan. In accordance with the Official plan, development and site alteration is not permitted within 120 metres of a significant natural feature unless it has been demonstrated that there will be no negative impact on the feature or their ecologic function).



Figure 1. Location Map of Subject Lands

The Applicants (The Kiwanis Club of Windsor) are requesting a site specific zoning amendment to Bylaw 1037 to permit the following:

- A reduction in the minimum lot area from 4000 square metres to 1850 square metres to permit residential infilling for four (4) residential lots, more specifically, Lots 40-52 on Registered Plan 1390

Lot area means the total land area, as measured along a horizontal plan, within the lot lines of a lot, but does not include any part of a lot permanently covered with water.

In 2014, the subject lands received a zoning amendment for the conversion of the lands zoning designation from Green District to Residential District to permit the construction of one (1) single detached dwelling. In order to satisfy Council's direction for no more than six (6) building lots and to qualify as "minor infilling" as permitted for lands within the Lakeshore Residential district, a supplementary regulation was added restricting the building lot to a minimum lot area of 4000 square meters (approximately 43,000 square feet) (**Note:** The subject lands are comprised of thirteen registered and transferrable building lots on Registered Plan 1390).

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.

The Town of Essex Official Plan permits "minor infilling" and single detached dwellings within currently established and zoned residential areas in the Lakeshore Residential designation where the development meets the applicable provisions for septic systems. The minimum lot area required for lots not serviced by a sanitary sewer is 1850 square metres under zoning district R1.1.

Under the Provincial Policy Statement 2020 (PPS, 2020), residential development that is locally appropriate is permitted on *rural lands*: defined as lands which are located outside settlement area and which are outside prime agricultural areas. Development, however, must be appropriate to the infrastructure which is available and avoid the need for the uneconomical/ unjustified expansion of infrastructure. Municipal water is available along Breezeway Drive and the road is owned by the Town of Essex. All neighbouring properties are serviced by septic systems.

A statutory public meeting was held on Monday March 29 through virtual means to hear public comments on the application prior to Council rendering a decision on the application on April 6. A copy of the public presentation is attached to this report. No written comments were

received in advance of the meeting from members of the public and no delegations presented oral comments other than the Applicants and their agent.

As a result of circulation, three (3) comments were provided by Essex Fire and Rescue Services, the County of Essex, and the Essex Region Conservation Authority (ERCA). The County and ERCA noted the need for additional permits to satisfy County road setbacks and flood regulations, but there were no objections to the proposal.

Bylaw 2005 revises Bylaw 1313 and section 28.1.30 of the Zoning Bylaw to remove the minimum lot area regulations for lots 40-52 on Registered Plan 1390.

3900 North Malden Road (ZBA-02-21)

The subject lands are 48 hectares (119 acres) in total land area. They are designated "Agricultural" on Schedule A-1 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 5 of Bylaw 1037.

The Subject Lands include one (1) single detached dwelling, two (2) pole barns, and two (2) agricultural buildings. The lands are currently being utilized for cash cropping purposes. The Applicants also raise livestock (beef cattle, chickens and horses).



Figure 2. Location Map of Subject Lands

The lands are located within a agricultural district, 1.3 kilometres west of the Essex Centre. The lands are within 120 metres of a natural heritage feature located at the northwest corner of the property (**Note:** Adjacent lands are defined as lands within 120 metres of a significant natural feature under the Official Plan. In accordance with the Official plan, development and site alteration is not permitted within 120 metres of a significant natural feature unless it has been demonstrated that there will be no negative impact on the feature or their ecologic function).

The Applicant (Lorne McKim) is requesting a site specific zoning amendment to Bylaw 1037 to permit the following:

- The use of the existing single-detached dwelling to accommodate the housing of farm help.

A *dwelling* is defined as a building or structure that is occupied in whole or in part by, for the purposes of human habitation under Bylaw 1037. Only one (1) single detached dwelling is permitted per lot in 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.

Under the Town of Essex Official Plan, one (1) or more *ancillary dwelling* for the purposes of housing farm help is permitted by site specific zoning-bylaw amendment and site plan control approval. An ancillary use is defined as a use which complements or otherwise provide a service to the main uses of the zoning district in which it is located.

The applicant must satisfy the Council that the following criteria are met:

- 1) 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:

The applicant has taken over the farming operation and would like to build his principle residence on the property but would like to retain the existing dwelling to accommodate housing for his father who currently resides in the dwelling and is essential to the daily functioning of the farm.

The applicant owns 300 acres of agricultural land for crop farming and the applicant has livestock that requires daily monitoring.

- 2) The ancillary dwelling(s) are located on the lot and accessed in such a way to prevent the creation of a severance residential lot in the future:

The current home and new home would both be located on the lot next to each other. They will both share the same access area and will be required to maintain the same water service connection, precluding a potential severance. The new home would be

setback to allow for convenient access and flow of farm vehicles in, around and out of the property.

Under the Provincial Policy Statement 2020 (PPS, 2020), permitted uses and activities in prime agricultural area include agricultural uses. The PPS definition of *Agricultural Uses* includes accommodation for full-time farm labour when the size and nature of the operation requires additional employment.

A statutory public meeting was held on Monday March 29 through virtual means to hear public comments on the application prior to Council rendering a decision on the application on April 6. A copy of the public presentation is attached to this report. No written comments were received in advance of the meeting from members of the public and no delegations presented oral comments other than the Applicant and their agent.

As a result of circulation, four (4) comments were provided by Essex Fire and Rescue Services, Town of Essex Infrastructure Services, Town of Essex Building Division and the Essex Region Conservation Authority (ERCA). ERCA noted the need for additional permits to satisfy flood regulations; Infrastructure Services noted that all water needed to be supplied from the existing plumbing; and, Building noted that proof of existing migrant accommodation may be required to facilitate this request with the Ministry of Agriculture, food and rural affair. No objections to the proposal were expressed.

Bylaw 2003 adds supplementary regulations to Bylaw 1037 for the subject lands to accommodate the housing of farm help in the existing dwelling and in accordance with the approved site plan.

Parts 1 and 2 on 12R28489 (ZBA-03-21)

The subject lands are 2 hectares (5 acres) in total land area. They are designated "Industrial" on Schedule A-2 of the Town of Essex Official Plan and is zoned Manufacturing District 1.3 (M1.3) for Light Industrial and Business Park on Map 03 of Bylaw 1037.

The Subject Lands are vacant. The lands are located within the Essex Centre Settlement Area parallel King’s Highway Number 3 and south of the Essex Town Centre residential development. The subject lands are also neighbored by industrial and highway commercial development to the east, west and south. The subject lands are accessed through South Talbot Road and are serviced by a municipally owned and operated water supply along the property frontage. Municipally owned and operated sanitary sewers are located at the rear of the site and is accessed through an existing easement.



Figure 3. Location Map with Subject lands

A portion of the Rush Drain is located upon the lands. As a result of the reconstruction of South Talbot Road, the Rush Drain will be relocated as well.

The Applicants (Salvatore Mazzella) are the proprietors of Sturgeon Woods RV Sales and Campground in Leamington. They are requesting a site specific zoning amendment to Bylaw 1037 to permit the following:

- The development of a motor vehicle dealership for the sale and display of Recreational Vehicles (RV); and
- The development of one (1) building for a sales office, parts store and repair garage (service building).

A *Motor Vehicle Dealership* means a lot and building or part thereof used for any one (1) or more of the following: The sale, lease or rental of motor vehicles, and, will also include any one (1) or more of the following accessory uses: an outdoor storage yard exclusively for the storage and display of motor vehicles; a heavy repair shop exclusively for the maintenance and repair of motor vehicles.

Note: A self-storage facility is also proposed for the subject lands but does not require a zoning amendment because it is a permitted use under the M1.3 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.

The Town of Essex Official Plan permits a motor vehicle dealership for lands designated "Industrial".

Under the Provincial Policy Statement 2020 (PPS, 2020), Planning authorities shall promote economic development and competitiveness by:

- a) providing for an appropriate mix and range of employment, institutional, and broader mixed uses to meet long-term needs;
- b) providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses.

A statutory public meeting was held on Monday March 29 through virtual means to hear public comments on the application prior to Council rendering a decision on the application on April 6. A copy of the public presentation is attached to this report. No written comments were received in advance of the meeting from members of the public and no delegations presented oral comments other than the Applicants and their agent.

As a result of circulation, three (3) comments were provided by Essex Fire and Rescue Services, the Ministry of Transportation (MTO), and the Essex Region Conservation Authority (ERCA). ERCA noted no objections but that further comments would be provided on the stormwater management plan as a result of site plan control approval. The MTO noted site access will continue to be via South Talbot Road and building and land use permits will be required. The MTO will require drainage, servicing and stormwater plans as a part of the site plan control process. The MTO has no objections to the proposed zoning amendment.

Bylaw 2004 revises Bylaw 1037 for the subject lands to add supplementary permitted use to accommodate a motor vehicle dealership.

Financial Impact

Notwithstanding an appeal, there is minimal financial impact associated with costs to undertake normal administrative operations for notifying the applicant and interested parties of the decision, and revising planning documents to reflect the amendments. Costs are recouped through the application fee which is presently at sixty-percent (60%) cost recovery.

Consultations

Notice of the applications for zoning bylaw amendment were circulated to all persons and public bodies required to be notified under subsection 5(9) of Ontario Regulation 545/06, including staff members from each Town of Essex department.

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

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| Document Title: | Site Specific Zoning Amendment (0 County Road 50 East) (3900 North Malden Road) (0 South Talbot Road).docx |
| Attachments: | <ul style="list-style-type: none">- Bylaw 2003.docx- Bylaw 2004 (PTS 1 and 2 on RP 28489).docx- Bylaw 2005 (Lots 40-52 on RP 1390).docx- o County Road 50 East (Kiwanis Camp of Windsor).pdf- 3900 North Malden Road Presentation.pdf- Sturgeon Woods RV Sales Lot.pdf |
| Final Approval Date: | Mar 30, 2021 |

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



Lori Chadwick, Director, Development Services - Mar 30, 2021 - 2:43 PM



Chris Nepszy, Chief Administrative Officer - Mar 30, 2021 - 2:44 PM