



Report to Council

Department: Development Services
Division: Planning
Date: April 19, 2022
Prepared by: Rita Jabbour, RPP, Manager, Planning Services
Report Number: Planning-2022-11
Subject: Site Specific Zoning and Site Plan Control Amendment for 1110 Ridge Road (Ward 3)
Number of Pages: 8 including attachments

Recommendation(s)

That Planning report Planning-2022-11 entitled Site Specific Zoning and Site Plan Control Amendment for 1110 Ridge Road (Ward 3) prepared by Rita Jabbour, RPP, Manager, Planning Services dated April 19, 2022 be received, and

That Bylaw 2146, Being a Bylaw to Amend Bylaw 1037, the Comprehensive Zoning Bylaw for the Town of Essex, to permit the construction of two (2) new ancillary dwellings to accommodate the housing of farm help at 1110 Ridge Road (ward 3), be adopted, and

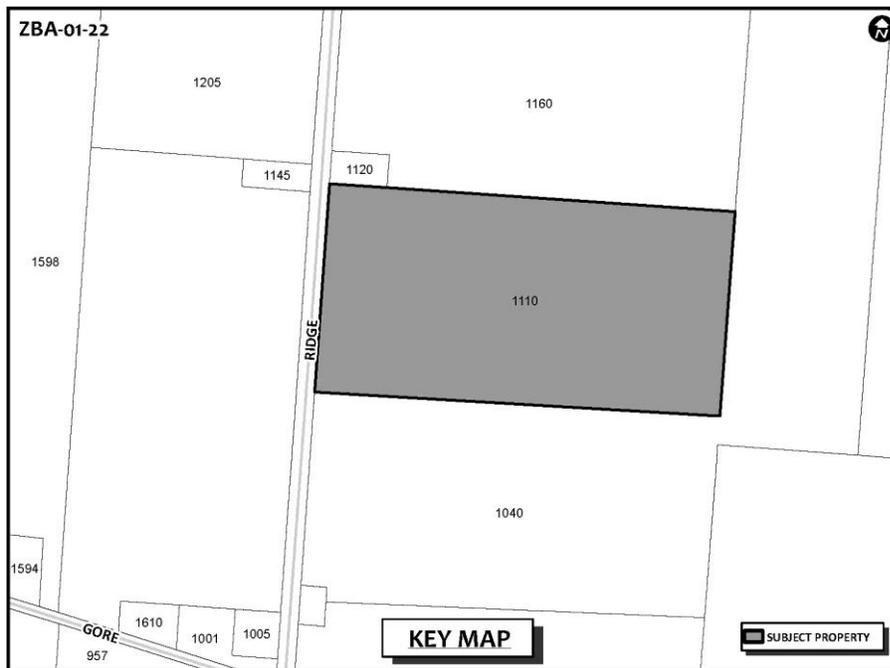
That Bylaw 2147, Being a Bylaw to Amend Bylaw 1979, the existing Site Plan Control Agreement between: The Corporation of the Town of Essex and Upper Canada Growers (UGC) Land INC, for the construction of two (2) new ancillary dwellings for the accommodation of farm help at 1110 Ridge Road (Ward 3), be executed and registered.

Purpose

To recommend adoption of a site-specific zoning and site plan control amendment to allow for 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).

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 Amendment, was received by the Municipality 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.

With reference to the **attached site plan**, the Subject Lands are occupied by the following:

- Three (3) existing ancillary dwellings/bunkhouses for the accommodation of farm labourers;
- one (1) agricultural outbuilding;
- one (1) warehouse/cooler;
- one (1) accessory building;
- one (1) commercial Greenhouse; and,
- several polyhouses (arched greenhouses)

The subject lands are located within an agricultural district where the predominate land use is agricultural. Lands located to the East of the Subject Lands are designated as Provincially Significant Wetland Areas (W1.1) and Provincially Significant Natural Environment Areas (NE1.1). Also located to the East of the Subject Lands on the abutting agricultural lot, is a commercial wind energy turbine.

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,
- A setback of 429 metres between the proposed dwellings and the commercial wind energy turbines located at 1040 Ridge Road.

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 future greenhouse expansion, and warehouse and office are also proposed but are **not** subject to a zoning bylaw amendment because they are permitted agricultural uses/agricultural relates uses within the A1.1 zoning district. They will be subject to site plan control approval which is anticipated in a separate report.

A site-specific zoning amendment is required because only one (1) dwelling is permitted per lot in the agricultural district and the minimum separation between a commercial wind energy turbine and a dwelling is 550 metres under Bylaw 1037.

In accordance with the Planning Act, a Zoning Bylaw 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 Town of Essex Official Plan for the area in which the subject property is designated and so long as the amendment is consistent with the Provincial Policy Statement (PPS) and the County and Town of Essex Official Plan.

Proposal Conformity

In prime agricultural areas, permitted uses and activities are agricultural uses. The Provincial Policy Statement (PPS, 2020) defines an "agricultural use" to include accommodations for full-time farm labour when the size and nature of the operation requires additional employment. Similarly, the County and Town of Essex Official Plan provides for accessory/ancillary farm accommodation 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. Further, the Official Plan for the Town of Essex provides that the ancillary dwellings must be located on the lot and accessed in such a way to prevent the creation of a severable residential lot in the future.

The Applicant owns an adjoining parcel of land which forms part of the agricultural operation which is concentrated on wholesale fruit tree production (apple trees). In total, the Applicant owns +65 hectares of land in the Municipality. On-site ancillary dwellings would allow for the centralization of operations reducing the need for transportation. On-site supervision is available 24 hours a day/7 day a week, year-round. The dwellings are proposed to be located behind the existing warehouse and the existing bunkhouses to prevent the creation of a severable residential lot in the future.

Neither the PPS (2020) nor the County or Town of Essex Official Plans seek to limit agricultural uses in proximity to commercial wind energy turbines. Rather, the County and Town direct that a noise study be completed prior to permitting development that may be affected by noise, vibration, or safety to recommend measures that will reduce the impact of levels recommended by the Ministry of Environment, Conservation and Parks. The Ministry has noted that a dwelling less than 550 metres from a wind turbine may expose an inhabitant to noise levels above the Ministry's allowable sound level limit of 40 decibels.

The applicant has obtained a Licensed Professional Engineer to complete an Acoustical Report to examine the impacts of noise created by the existing wind turbine on the proposed ancillary dwellings and to recommend mitigation measures based on the criteria set by the Ministry. The Report has identified that a low level of noise is generated from the wind turbines but that the turbines could at times generate annoyance to inhabitants of the residential units.

To satisfy the Ministry criteria, the Report has recommended special building components for areas of sensitive use (i.e. bedrooms, common areas, dining rooms) and that prior to building permit issuance, an acoustical consultant review the sound transmission class (STC) for the walls, windows and doors of the proposed dwellings in order to ensure conformity with the recommendations in the Report.

A statutory public meeting was held on Monday February 22 through virtual means to hear public comments on the application prior to Council rendering a decision on the application. **A copy of the public presentation is attached to this report for reference.**

Three (3) written comment were received in advance of the meeting from members of the public which included *Wind Concerns Ontario*- a coalition of individuals and community groups concerned about the negative impacts on health, environment, and the economy from industrial-scale wind power generation projects- and *Justicia for Migrant Workers* (J4MW)- an all-volunteer organization that advocates for the rights of migrant farm workers. Concerns raised in the public comments were mainly with respects to the potential for noise nuisances as a result of the proposed setback reduction from the wind turbine on the inhabitants of the proposed dwellings (this has now been evaluated and addressed through recommended mitigation strategies in the submitted Acoustical Report). Nonetheless, the comments have identified valuable recommendations for a future review of zoning regulations respecting setbacks between wind turbines and residential uses in agricultural areas, and respecting consultation processes for developments that may impact the well being of migrant farm workers.

One (1) delegation presented oral comments other than the Applicant at the public meeting. Their concerns were related to the following:

- stormwater management,
- the type of septic field proposed,
- the impact on the highly vulnerable aquifer, and,
- Buffering between the proposed dwellings and the neighbouring property with a recommendation that the property access be to the south of the warehouse

It was noted that the development is subject to site plan control approval, at which time, matters concerning stormwater, groundwater, and buffering will be addressed. It was noted that a stormwater management plan has been submitted, reviewed, and accepted by the Town of Essex. No groundwater impact assessment was identified as being required by the Essex Region Conservation Authority (ERCA), however, it was noted that the applicant must consult with the Risk Management Official at ERCA to determine if any future proposed

activities on the Subject Lands will result in an increased risk of contamination of the aquifer and recharge area. It was also noted that the approval of the septic system is under the jurisdiction of the Building Code and the Chief Building Official of the Town of Essex, and that the delegate will be provided with a copy of the site plan to ensure the interests of their property are protected.

Bylaw 2146

Bylaw 2146 amends Bylaw 1978, to add two (2) additional ancillary dwellings as a permitted use on the subject lands with an allowable distance of 429 metres from a commercial wind energy turbine and replaces reference to the site plan with the site plan dated January 24, 2022, as amended by Bylaw 2146.

Bylaw 2147 and the accompanying amending Site Plan Control agreement makes changes to Bylaw 1979, the original Site Plan Agreement, to allow for the construction of the ancillary dwellings including the location and number of all access areas and vehicle and bicycle parking spaces required because of the development, in accordance with the site plan dated January 24, 2022, and for the implementation of all recommendations noted within the Acoustical Report dated March 25, 2022.

Financial Impact

All costs associated with the processing of this request for site specific zoning amendment and site plan control amendment are recouped 100% through the application fees (\$4500) and required deposit (\$5000). Building permit fees and development charges are applicable at the time of building permit issuance.

Development charges for the construction of two (2) new ancillary dwellings is **\$19,094**.

Consultations

Notice of the application for zoning bylaw and site plan control amendment was circulated to all persons and public bodies require 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

Document Title:	Site Specific Zoning and Site Plan Control Amendment for 1110 Ridge Road - Planning-2022-11.docx
Attachments:	<ul style="list-style-type: none">- TOTAL FUTURE-SITE PLAN_JAN 24_2022.pdf- Presentation [Autosaved].pdf- Bylaw 2146 to amend the Zoning Bylaw.docx- Bylaw 2147.docx
Final Approval Date:	Apr 13, 2022

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



Lori Chadwick, Director, Development Services - Apr 13, 2022 - 9:44 AM



Doug Sweet, Chief Administrative Officer - Apr 13, 2022 - 9:45 AM