



Meeting Date: May 22, 2024

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Report No: PLA-20-2024

Subject: Application for Zoning By-law Amendment (ZBA-1-2024) for 22596 Coldstream Road; Filed by Bailey Van Praet and Karen Van Praet

Recommendation:

THAT Zoning By-law Amendment application (ZBA-1-2024) for a temporary use zone, filed by Bailey Van Praet and Karen Van Praet, to permit two single-detached dwellings on one property for up to three years to allow a new residence to be constructed on the land known as 22596 Coldstream Road, be APPROVED;

AND THAT the owner be required to enter into a new Temporary Use Agreement with the Municipality and submit a deposit of \$15,000 to ensure the removal of the existing residence.

Purpose:

This report is to provide Council with a recommendation regarding a proposal to temporarily re-zone a property located on the east side of Coldstream Road and northwest of the Glendon Drive and Vanneck Road intersection. The property is legally described as Concession 2 Pt Lot 8 RP 33R13722 Part 2 (geographic Township of Lobo), Municipality of Middlesex Centre and known municipally as 22596 Coldstream Road.

A location map is included as Attachment 1.

Background:

The purpose and effect of the rezoning application is to temporarily permit two single-detached dwellings for a period not to exceed three years which will continue to allow the construction of a new residence on the subject land. The existing residence would be removed from the land upon expiration of the three-year period or the occupancy of the new single-detached dwelling; whichever occurs first.

The subject land is a rural residential parcel approximately 0.33 ha (0.82 ac) and contains an existing single detached dwelling and accessory buildings. The land has private services available. Surrounding land uses include rural residential properties, and agricultural lands, and the community of Kilworth is located to the south. The property abuts a branch of the Thames River and natural heritage features, and is entirely regulated by the Upper Thames River Conservation Authority.

Policy Regulation:

The property is designated 'Agricultural Area' within the County of Middlesex Official Plan, and 'Agriculture' within the Middlesex Centre Official Plan. The land is also zoned 'Restricted Agricultural (A2)' within Middlesex Centre's Zoning By-law. As such, the policies and provisions below are applicable to the land.

Provincial Policy Statement, 2020 (PPS):

Section 2.3 – Agriculture directs that prime agricultural areas shall be protected for long-term for agriculture. Permitted uses include agricultural uses, agriculture-related uses and on-farm diversified. These uses allow for farm buildings and structures including a farm residence.

County of Middlesex Official Plan:

Section 3.3 – Agricultural Areas-Permitted Uses of the County Plan recognizes that Agricultural Areas shall be preserved as the agricultural industry is vital to the Middlesex economy. Permitted uses include agricultural and related uses including up to two (2) farm residences provided the second farm residence is a temporary residential unit.

Middlesex Centre Official Plan:

Section 2.0 – Policies for Agricultural Areas recognizes that the agricultural land base is one of the most significant economic and community assets within the municipality. Agricultural Areas are intended to be used predominantly for agriculture and agriculture related uses including a principle farm dwelling and related buildings and structures.

Section 10.11 – Temporary Use By-laws allows Council to pass a temporary use by-law to allow a use otherwise prohibited by the Municipality's zoning by-law. The period of time which it is in effect is not to exceed three (3) years from the day of the passing of the by-law, and Council may extend this period by passing further by-laws each of which shall not exceed a period of more than three (3) years.

In enacting a temporary use by-law, Council shall have regard for the following as a minimum: (a) the compatibility of the proposed use with the surrounding land uses; (b) the adequacy of any services that may be required for the proposed use; (c) access and parking requirements; (d) traffic impacts; and (e) the conformity of the proposed use with the policies of this Plan. Temporary use by-laws shall not be passed for the purpose of permitting uses that are not in conformity with the Official Plan.

Middlesex Centre's adopted Official Plan Amendment (OPA No. 59) does not propose changes to Section 2.0 related to permitting a principle farm dwelling on an agricultural property.

Middlesex Centre Zoning By-law:

The subject land is zoned 'Restricted Agricultural (A2)' which permits a single detached dwelling in addition to other agricultural uses except intensive uses due to proximity to an urban settlement area. The requested amendment proposes a temporary use zone (t-1) to temporarily allow two (2) single detached dwellings on the property for a period up to three (3) years, and the 'Restricted Agricultural (A2)' zone would continue to apply to the property. The temporary zone (t-1) would allow the new residence to be constructed on the land, and the existing home will be removed when the new home is occupied or at the end of the three (3) year period.

Consultation:

Notice of Complete Application and Public Meeting were circulated to agencies, as well as property owners in accordance with the *Planning Act* and Ontario Regulation 545/06.

Public Comments:

At the time of writing this report, no comments or concerns have been received from the public regarding this rezoning application.

Agency Comments:

At the time of writing the subject report the following comments had been received:

The Municipality's Chief Building Official and the Public Works and Engineering Department reviewed the application and has no objection to the requested temporary zone for an additional 3 years. The applicant is to submit a deposit of up to \$15,000 and enter into a new Temporary Use Agreement with the Municipality to ensure the removal of the existing residence promptly once occupancy is provided to the new residence.

Upper Thames River Conservation Authority (UTRCA) has no objections to the Zoning By-law Amendment application as the details required to delineate the hazards present had already been completed through the Section 28 Permit process, and the permit has already been issued. The development limit had been set through the slope stability assessment and the site plans submitted alongside this application are consistent with the permitted plans which confirm that no development is proposed within the erosion hazard.

Please note as a reminder, that while a Section 28 Permit has already been issued from UTRCA Land Use Regulations staff, construction equipment within the erosion hazard and its 6m access allowance is not permitted during the demolition and building process.

Canadian National Railway (CN) reviewed the application as the subject land is within 300 m of CN's main line. Development of sensitive uses in proximity to railway operations cultivates an environment in which land use incompatibility issues are exacerbated. CN's guidelines reinforce the safety and well-being of any existing and future occupants of the area. CN recommends adding warning clauses into all development agreements, offers of Purchase and Sale or Lease. Additionally, CN recommends restrictive covenants and agreements that prohibit alteration or tampering of noise and vibration isolation measures. The Owner should also implement noise mitigation measures in the design and construction of the new dwelling.

Analysis:

The PPS, County Official Plan, Middlesex Centre Official Plan and Zoning By-law contain policies that permit agriculture-related uses. This includes all forms of farming including related uses and buildings such as principal farm residences. Additionally, the Zoning By-law permit a single detached dwelling on lands zoned 'Restricted Agricultural (A2)'.

The *Planning Act* authorizes municipalities to allow temporary uses on land, buildings or structures for any purposes that is otherwise not permitted within the Zoning By-law for a period of up to three (3) years. This authorization is further communicated through policies of the Middlesex Centre Official Plan provided that the proposed use is compatible with the surrounding area; adequate services exist for the proposed use; access, traffic and parking are addressed; and that the use being proposed conforms to the Official Plan, among other items.

The effect of the Zoning By-law amendment application is to replace an existing single-detached dwelling with a new single-detached dwelling. In general, the use of a dwelling as a primary residence is permitted on this property as established in the Middlesex Centre Official Plan and Zoning By-law.

Upon review of the proposed dwelling, Building staff identified that the proposed dwelling may not meet some standards of the 'Restricted Agricultural (A2)' zone and may require additional planning approvals. However, there is no anticipated increase in traffic or parking requirements for the residence as the new dwelling will be under construction, and the existing dwelling will be removed from the property.

Staff note the identification of the natural heritage system on the subject lands and in proximity to the existing dwelling. However, it appears that a majority of the lands within this area is grassed and a new dwelling is not likely to adversely impact natural heritage features. Further, the new dwelling is located closer to the street frontage away from natural hazards, and the applicant has advised that they have been working with UTRCA through the Section 28 permitting process.

Staff have also advised the applicant that a security deposit of \$15,000 is requested through a temporary use agreement between the landowner and the Municipality to ensure the existing residence is removed upon completion of the new residence.

Given the above, planning staff determined that the requested zoning by-law amendment for a temporary use zone for a period of up to three (3) years is consistent with the Provincial Policy Statement, 2020, the County of Middlesex Official Plan, Middlesex Centre's Official Plan, and Middlesex Centre's Zoning By-law.

This opinion is provided prior to the public meeting and without the benefit of potentially receiving all comments from agencies or members of the public. Should new information arise regarding this proposal prior to or at the public meeting, Council is advised to take such information into account when considering the application.

Financial Implications:

None.

Attachments:

Attachment 1 - Location Map

Attachment 2 – Applicant's Sketch