



Administrative Report

Office of the Manager, Planning Services

To: Warden McNamara and Members of Essex County Council

From: Rebecca Belanger
Manager, Planning Services

Date: Wednesday, June 16, 2021

Subject: Town of Tecumseh New Official Plan with Proposed Modifications

Report #: 2021-0616-PS-R02-RB

Purpose

To advise County Council with regard to the Town of Tecumseh Official Plan and recommend that the Official Plan be approved.

Background

With the approval of the County of Essex Official Plan, the County became the Approval Authority for the approval of plans of subdivision/condominium, local Official Plans, local Official Plan Amendments, and Part Lot Control By-laws. In accordance with Sections 17.1(1) and 51.2(1) of the Planning Act, R.S.O. 1990, c.P.13, County Council delegated the approval authority for local Official Plan Amendments, plans of subdivision and condominium, and Part Lot Control By-laws, to the Manager of Planning Services. The approval of local Official Plans has not been delegated from County Council.

This report and its associated appendices describe and present the content of the County draft Notice of Decision from a number of different perspectives. This report provides discussion organized in the following sections:

- Background
- Summary of modifications with an explanation

- Effect of the County of Essex Draft Decision

The appendices to this report provide the Notice of Decision including the proposed modifications, and the adopted version of the Tecumseh Official Plan with Schedules.

Discussion

Background

The existing Official Plans governing land use planning in Tecumseh are proposed to be replaced by a new Official Plan encompassing all lands in the Town. Under the Ontario *Planning Act*, municipalities are required to regularly review their Official Plans, and to conform to the Upper-Tier Plan and be consistent with the Provincial Policy Statement (PPS). A number of background reports were prepared and available on the Town's website. The Manager, Planning Services reviewed all background documents during the Official Plan review. Public engagement sessions were held at various stages of the Official Plan review to provide information and answer questions. Two Public Information Centres were held on November 4 and 5, 2020. The Statutory Public Meeting was held on January 26, 2021. In addition, various agencies, Ministries and the County were consulted and provided further input throughout the review process. As a result of extensive community/landowner/stakeholder consultation, the Tecumseh Official Plan incorporates various designations and policies that reflect the input and comments that were received.

The Provincial Policy Statement was issued under Section 3 of the *Planning Act* and came into effect May 1, 2020. Accordingly, the new Draft Tecumseh Official Plan was modified to incorporate the policy directions of PPS 2020. On behalf of County Council as the approval authority, the Manager, Planning Services reviewed the final document for consistency with the County's Official Plan and the Provincial Policy Statement. Significant consultation also occurred with the Essex Region Conservation Authority (ERCA) and with the Ministry of Municipal Affairs and Housing (MMAH) to ensure consistency with the PPS and recent Provincial policy directives.

After adoption, in accordance with Section 17(31) of the *Planning Act*, the Town provided the complete municipal record of the adopted Official Plan to the County of Essex for review and approval.

Summary of Modifications

Following the adoption of the plan by Council on February 23, 2021 County Planning initiated the review of the final document. Further discussions occurred with MMAH, ERCA and a representative of the Walpole Island First Nation. The County prepared a draft Notice of Decision with proposed modifications and collaborated with the Town on a track changes version of proposed policy updates. As a result of the County review and agency discussions, sixteen proposed modifications were identified by the Manager, Planning Services in consultation with Town Administration which were ultimately endorsed by Tecumseh Town Council. The modifications are grouped into the following policy areas:

- 1) Indigenous Consultation
- 2) Additional Residential Units (ARUs)
- 3) Water Resources and Hazard Lands Policies
- 4) Other Minor Modifications

The Manager, Planning Services for the County requested that the proposed modifications be reviewed with Tecumseh Council in order to seek endorsement prior to the new Official Plan, with modifications, being brought forward to County Council for final approval. Accordingly, the following section provides a summary of the modifications along with Administrative comments from the County and Tecumseh Planning Departments.

- 1) Indigenous Consultation (Modification Nos. 1, 2, 11, 13 and 14)

As a result of consultation between the County Planning Department and a representative of Walpole Island First Nation, minor changes were made to a number of policies in the adopted OP (noted above). The changes are intended to better reflect the strengthened policy directives of the PPS 2020 recognizing the unique role Indigenous communities have in land use planning and development and the contribution of Indigenous communities' perspectives and traditional knowledge to land use planning decisions. It is intended as part of the next County Official Plan review process which will be initiated during 2021, that extensive consultations will be undertaken with Indigenous communities to facilitate meaningful engagement and partnerships.

2) Additional Residential Units (ARUs) (Modifications 6, 7, 15 and 16)

Section 16(3) of the Planning Act establishes that an Official Plan shall authorize the use of ARUs by authorizing:

- a) the use of two residential units in a detached house, semi-detached house or rowhouse (townhouse); and
- b) the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse (townhouse).

The Council-adopted Tecumseh Official Plan permits ARUs only in the Residential and Maidstone Hamlet Residential designations and establishes that ARUs within a primary dwelling are permitted as-of-right whereas site-specific zoning by-law amendments are necessary for a stand-alone ARU.

Upon further review and discussions with MMAH, it has been clarified that the intent of the legislation was in fact to permit ARUs as-of-right in both urban and rural areas and allow for a total of three units per property (the primary dwelling, an ARU within the primary dwelling and an ARU as an ancillary residential use). Accordingly, the proposed modifications identified in Sections 6,7, 15 and 16 are intended to satisfy the most recent changes to the *Planning Act* regarding ARUs. The proposed modifications provide balance to the directive of the Planning Act with the growth management policies and principles contained in the PPS and County of Essex Official Plan.

3) Water Resources and Hazard Lands Policies (Modifications 8 and 9)

The proposed minor modifications make the changes to the Water Resources and Hazard Lands policies as a result of further consultation with ERCA Administration. Additional language for clarification has been added to the Source Water Protection policies specifically regarding Intake Protection Zone 3 and Event Based Areas (EBAs). The Limit of Regulated Area (LORA) under the *Conservation Authorities Act* as Regulated by ERCA has been further defined in Modification 9.

Policy language has been added which establishes that the Town will notify the Source Protection Authority and Source Protection Committee of proposals to engage in an activity that may result in the creation of a new transport pathway or the modification of an existing transport pathway.

4) Other Minor Modifications (Modifications 3, 4, 5, 10 and 12)

Modification 3 – clarifies that mobile homes are permitted as garden suites.

Modification 4 – establishes that climate change impacts can also be reduced through the development review process and the preparation of secondary plans, master plans, and local comprehensive reviews.

Modification 5 – enhances the Accessibility/Universal Design policies by establishing that development applications will be reviewed in such a manner to ensure that accessibility for persons with disabilities and the elderly will be improved and by removing land use barriers which restrict their full participation with the community. This modification was drafted to reflect the current PPS directive regarding Accessibility/Universal Design.

Modification 10 – adds the County of Essex as a road authority to be consulted where a proposed lot severance fronts a County Road.

Modification 12 – establishes that Temporary Use By-laws for garden suites can be granted by Council for a period of up to 20 years, consistent with Section 39.1 of the Planning Act.

Effect of the County of Essex Draft Decision

Next Steps in the Approval Process

As noted in the below Recommendation Section of this report, the approval of local Official Plans has not been delegated from Council. County Council's authorization is required to issue a Notice of Decision on behalf of the County of Essex to approve the Town of Tecumseh Official Plan including the proposed sixteen modifications in the attached draft "Decision" to this report. Following the authorization of County Council and Issuance of a Notice of Decision, the list of individuals that have specifically requested notice of the decision based on the requirements in the *Planning Act* will be notified. Appeal rights identified in the *Planning Act* will be available and the County will follow up accordingly as required.

Financial Implications

There are no financial implications associated with this report.

Recommendation

That County Council receive the report of the Manager, Planning Services with regard to the Town of Tecumseh Official Plan, and authorize the Manager, Planning Services to issue a Notice of Decision on behalf of the County of Essex to approve the Town of Tecumseh Official Plan subject to the modifications as outlined in the draft "Decision" attached to Report number 2021-0616-PS-R02-RB.

Respectfully Submitted

Rebecca Belanger

Rebecca Belanger, Manager Planning Services

Concurred With,

Mike Galloway

Mike Galloway, Chief Administrative Officer

Appendix Number	Title
Appendix A	Draft Notice of Decision with Modifications
Appendix B	Link to Town of Tecumseh Official Plan and Schedules