

File No.: 37-OP-2021-001
Municipality: Town of Tecumseh

Date of Decision: XXXX, 2021
Date of Notice: XXXX, 2021
Last Date of Appeal: XXXX, 2021

NOTICE OF DECISION

With respect to an Official Plan Subsection 17(35) of the Planning Act

A decision was made on the date noted above to approve with modifications, the Official Plan for the Town of Tecumseh, as adopted by By-law 2021-10.

Purpose and Effect of the Official Plan Amendment

The purpose of the Official Plan is to provide direction for future land use and resource management throughout the municipality. The Official Plan designates all lands for intended future uses such as Agricultural, Residential, General Commercial, Main Street Mixed Use, Business Park, Natural Heritage System, etc. The document is intended to provide direction for planning and development for the next 25 years. A copy of the decision is attached.

Effect of Written Submissions on Decision

The Manager, Planning Services for the County carefully reviewed and considered each of the submissions based on the County's responsibility to ensure that the Tecumseh New Official Plan conforms to, or does not conflict with, the County Official Plan, is consistent with the Provincial Policy Statement 2020, and conforms to, or does not conflict with, the applicable Provincial Plans.

When and How to File an Appeal

Notice to appeal the decision to the Local Planning Appeal Tribunal (LPAT) must be filed with the County of Essex no later than 20 days from the date of this notice as shown above as the last date of appeal.

The notice of appeal should be sent to the attention of the Manager, Planning Services at the address shown below and it must,

- (1) include a completed **Appellant Form (A1) Planning Act** available from the LPAT website www.elfto.gov.on.ca, and
- (2) be accompanied by the prescribed filing fee payable by certified cheque or money order to the Minister of Finance, and
- (3) set out the reasons for the appeal and the specific part of the proposed Official Plan to which the appeal applies.

The reasons for the appeal must include an explanation of how the proposed official plan amendment:

- Is inconsistent with the provincial policy statements issued under subsection 3(1) of the *Planning Act*;
- Fails to conform with or conflicts with a provincial plan; or,
- Fails to conform with the Essex County Official Plan.

Who Can File An Appeal

Only individuals, corporations or public bodies may appeal a decision of the approval authority to the LPAT. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

No person or public body shall be added as a party to the hearing of the appeal unless, before the amendment was adopted, the person or public body made oral submissions at a public meeting or written submissions to the Council or, in the opinion of the LPAT, there are reasonable grounds to add the person or public body as a party.

When the Decision is Final

The decision of the County of Essex is final if a Notice of Appeal is not received on or before the last date of appeal noted above.

Getting Additional Information

Additional information about the amendment, including a complete version of the amendment, is available for public inspection during regular office hours at the County of Essex at the address noted below or from the Town of Tecumseh.

Mailing Address for Filing a Notice of Appeal:

County of Essex
360 Fairview Avenue West
Essex, ON N8M 1Y6
And Email:
rbelanger@countyofessex.ca

Submit notice of appeal to the attention of:

Rebecca Belanger, Manager – Planning Services
Tel: (519) 776-6441, Ext. 1325
rbelanger@countyofessex.ca

Other Related Applications n/a

DECISION

With respect to the Town of Tecumseh Official Plan Subsection 17(34) of the Planning Act

I hereby modify and approve as modified the Official Plan for the Town of Tecumseh, as adopted by By-Law 2021-10, subject to the following modifications:

Modification #1

Section 1.4, Purpose of the Plan, xvi) is deleted in its entirety and replaced with the following:

xvi) establish a framework for public involvement, including Indigenous communities, in the implementation and review of the Official Plan's goals and policies;

Modification #2

Section 3.4, Cultural Heritage and Archaeological Resources, the final paragraph in the section is deleted in its entirety and replaced with the following:

The Town shall engage with Indigenous communities and consider their interests when identifying, protecting and managing cultural heritage and archaeological resources. The Town shall consult with Indigenous communities when developing and implementing an Archaeological Management Plan or Cultural Heritage Plan.

Modification #3

Section 3.10, Mobile Homes is deleted in its entirety and replaced with the following:

Mobile homes shall not be permitted in the Town except for the accommodation of seasonal farm labourers and as garden suites in accordance with the policies of Sections 4.1.2 and 10.15 of this Plan. Mobile homes used for the accommodation of seasonal farm labourers shall be listed as permitted uses in the Agricultural zone.

Modification #4

Section 3.14, Energy Conservation and Climate Change and Air Quality, the second sentence in the first paragraph is deleted in its entirety and replaced with the following:

These impacts can be reduced through sustainable, effective and efficient land use and transportation policies that guide the development review process and the preparation of secondary plans, master plans, and local comprehensive reviews.

Modification #5

Section 3.15, Accessibility/Universal Design, the following sentence is added to the end of the first paragraph:

Development applications will be reviewed ensuring 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.

Modification #6

Section 4.1.2, Agricultural Land Use Policies, subsections ix) and x), are deleted in their entirety and replaced with the following:

- ix) the Zoning By-law shall permit one primary single unit dwelling per lot;
- x) an additional residence on a lot for the purposes of housing farm help may be allowed once the need for such housing has been adequately demonstrated in terms of the following: the farm helps' working activity is primarily, but not necessarily exclusively, devoted to the farm operation; and the farm operation requires the help to be accommodated close to the farm. The farm help residence should use the same access as the primary single unit dwelling where such dwelling exists, be located within the cluster of farm buildings and will not be eligible for severance in the future;
- xi) an additional residential unit (ARU) shall be permitted within a primary single unit dwelling subject to the following criteria:
 - a. the gross floor area of the ARU is equal to or less than the floor area of the primary single unit dwelling on the lot;
 - b. there is no other ARU or garden suite on the property;
 - c. the dwelling fronts on and has access to/from a municipal road;
 - d. there are adequate services including municipal water; and
 - e. adequate off-street parking is provided;
- xii) a stand-alone ARU, as an ancillary use to a primary single unit dwelling, shall be permitted subject to a Zoning By-law amendment and appropriate zoning regulations being in place. The following criteria will be considered as the basis for all Zoning By-law amendments to permit a stand-alone ARU:
 - a. the ARU is subordinate to the primary dwelling on the lot;
 - b. there is no other ARU or garden suite on the property;

- c. the ARU should use the same access as the primary single unit dwelling and be located within the cluster of existing buildings;
 - f. the ARU will not be eligible for severance in the future;
 - g. there are adequate services including municipal water; and
 - h. other requirements such as parking, tree preservation, landscaping and the provision of amenity areas are adequately addressed;
- xiii) garden suites shall be permitted as a temporary use in accordance with the policies of Section 10.15 of this Plan and subject to the following criteria:
- a. a maximum of one garden suite per lot is permitted;
 - b. sufficient parking is provided;
 - c. the property owner must reside in the primary single unit dwelling on the lot;
 - d. there is no ARU on the property;
 - e. the property owner has entered into an agreement with the Town with respect to such matters as installation, maintenance, removal and occupancy of the garden suite and has posted suitable financial security with respect to the agreement in accordance with the *Planning Act*;
 - f. a certificate of occupancy will be required prior to occupancy;
 - g. there are no servicing constraints and, where the property is served by private on-site sewage services, approval of a garden suite is subject to approval of the Town's Building Department; and
 - h. the garden suite shall be of a temporary nature and shall not entail any major construction or investment on the part of the owner so that the owner will not experience undue hardship in removing the garden suite or converting it to a permitted use; and
- xiv) all development in the Agricultural designation shall be in accordance with the land division policies contained in Section 6 of this Plan.

Modification #7

Section 4.2.2, Residential Land Use Policies, subsections vii) through ix) are deleted in their entirety and replaced with the following:

- vii) an ARU shall be permitted within a single unit detached, semi-detached or townhouse dwelling unit subject to the following criteria:

- a. the gross floor area of the ARU is equal to or less than the gross floor area of the primary dwelling unit on the lot;
 - b. the dwelling fronts on and has access to/from a municipal road or municipal laneway;
 - c. there are full municipal services and no servicing constraints, except where the property is not yet serviced by municipal sanitary sewers, consideration may be given to a private on-site sewage service subject to approval of the Town's Building Department; and
 - d. adequate off-street parking is provided;
- viii) a stand-alone ARU, as an ancillary use to a single unit detached or semi-detached dwelling unit, shall be permitted subject to the following criteria:
- a. the ARU is subordinate to the primary dwelling on the lot;
 - b. the ARU can be integrated into its surroundings with negligible visual impact to the streetscape;
 - c. the ARU is compatible in design and scale with the built form on the lot and the surrounding residential neighbourhood in terms of massing, height and visual appearance;
 - d. there are full municipal services and no servicing constraints, except where the property is not yet serviced by municipal sanitary sewers, consideration may be given to a private on-site sewage service subject to approval of the Town's Building Department; and
 - e. other requirements such as parking, access, stormwater management, tree preservation, landscaping and the provision of amenity areas are adequately addressed;
- ix) garden suites shall be permitted as a temporary use in accordance with the policies of Section 10.15 of this Plan and subject to the following criteria:
- a. a maximum of one garden suite per single unit detached dwelling lot or semi-detached dwelling lot;
 - b. sufficient parking, landscaping and buffering are provided;
 - c. the property owner must reside in the primary dwelling on the lot;
 - d. there is no ARU on the property;
 - e. the property owner has entered into an agreement with the Town with respect to such matters as installation, maintenance, removal and occupancy of the

garden suite and has posted suitable financial security with respect to the agreement in accordance with the *Planning Act*;

- f. a certificate of occupancy will be required prior to occupancy;
- g. there are no servicing constraints;
- h. the garden suite shall be of a temporary nature and shall not entail any major construction or investment on the part of the owner so that the owner will not experience undue hardship in removing the garden suite or converting it to a permitted use;

Modification #8

Section 5.4.1.1, Intake Protection Zones, is deleted in its entirety and replaced with the following:

Intake Protection Zones are areas of land and water, where run-off from streams or drainage systems, in conjunction with currents in lakes and rivers, could directly impact on the source water at the municipal drinking water intakes. Schedule "G" maps the Town's Intake Protection Zones. The Town contains only Intake Protection Zone 3 (IPZ-3) areas. These extend outward from IPZ-2, and cover larger watershed areas where modelling demonstrates that contaminant spills may reach the intake during an extreme rainfall or wind storm event and includes lands within 120 metres of the top-of-bank of the subject waterways, or the flood plain regulated area, whichever is greater. In the case of the handling and storage of large volumes of liquid fuel, IPZ-1, IPZ-2 and IPZ-3 are joined together collectively forming the Event Based Area (EBA).

The Event Based Area (EBA) is an area where modeling has demonstrated that a spill from a specific activity can or could cause deterioration to the raw water quality at the drinking water system. Reference must be made to the Source Protection Plan and accompanying Assessment Report for more complete details and explanations regarding these IPZs, the threats to drinking water sources, and associated policies.

The Clean Water Act requires that all decisions under the Planning Act or Condominium Act made by municipal planning authorities must conform to significant threat policies and have regard for other policies in an approved Source Protection Plan. Within areas identified in an approved Source Protection Plan any use or activity that is, or would be, a significant drinking water threat is required to conform to all applicable Source Protection Plan policies and, as such, may be prohibited, regulated or otherwise restricted by those Source Protection Plan policies. Where required by policies in an approved Source Protection Plan, the local municipalities shall circulate all development applications or proposed land use changes proposing the handling and storage of fuel on non-residential lands within the Event Based Area to the Risk Management Official (RMO) in keeping with the Written Direction provided by the RMO which may be updated from time to time. Where the Source Protection Plan does not require an RMO notice, the local municipality should be satisfied that the proposal will not include activities which would be a significant threat in the location proposed.

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, which may include, but not be limited to a modification to a surface watercourse or municipal drain.

Modification #9

Section 5.5.1, Limit of the Regulated Area (LORA), the first sentence in the first paragraph is deleted in its entirety and replaced with the following:

The Limit of the Regulated Area comprises riverine and shoreline hazards, along with associated floodplains where there may be natural heritage features with a hydrologic linkage.

Modification #10

Section 6.4, Consent Policies, subsection i) is deleted in its entirety and replaced with the following:

- i) consents will be granted only when all parcels involved abut an existing publicly owned and maintained road of a standard of construction acceptable to the Town, or the County of Essex or Ministry of Transportation, where applicable;

Modification #11

Section 10.11 Other Methods of Implementation, is hereby amended by adding a new subsection v) to immediately follow subsection iv) and to read as follows:

- v) the assistance and advice of Indigenous communities on cultural heritage resources and natural heritage preservation matters.

Modification #12

Section 10.15 Temporary Use By-laws, the first sentence in the first paragraph is deleted in its entirety and replaced with the following:

Pursuant to Section 39 of the Planning Act, R.S.O. 1990, Council may pass "temporary use by-laws" to authorize the temporary use of land, buildings or structures for a purpose not otherwise authorized by the Zoning By-law for a specific period of time not to exceed three years or, in the case of a garden suite, not to exceed 20 years.

Modification #13

Section 10.21, Public Consultation is deleted in its entirety, including the title and replaced with the following:

Engagement and Participation

Council shall actively encourage meaningful engagement and participation by seeking the opinions and the advice of individuals and community and stakeholder groups, including Indigenous communities, in the on-going task of implementing, monitoring and reviewing this Plan. Council shall ensure that the public is adequately notified and consulted. The measures utilized to facilitate engagement and participation will be consistent with the scope and nature of the planning matter being addressed. Prior to making decisions related to planning matters, Council will encourage appropriate steps to be taken to resolve conflicting issues associated with the proposal. Where conflicting issues remain unresolved, these issues and the measures taken to respond to these issues shall be identified as part of any planning report prepared. Measures such as peer review and Alternative Dispute Resolution will be used when determined to be appropriate.

Modification #14

Section 10.22, First Nations and Metis Consultation is deleted in its entirety, including the titled and replaced with the following:

Indigenous Consultation

Council shall actively seek the opinions and the advice of Indigenous communities. The Town honours the land and peoples of Indigenous communities in Tecumseh and their past and present contributions to this land. Council commits to collaborating with these communities on respectful inclusion and representation of Indigenous peoples' culture in urban greenspaces, Indigenous art and ceremonial gathering spaces.

Modification #15

Section 11.2.3, Maidstone Hamlet Residential Policies, subsections iv) through vi) are deleted in their entirety and replaced with the following:

- iv) an ARU shall be permitted within a single unit detached, semi-detached or townhouse dwelling unit subject to the following criteria:
 - a. the gross floor area of the ARU is equal to or less than the gross floor area of the primary dwelling unit on the lot;
 - b. the dwelling fronts on and has access to/from a municipal road or municipal laneway;
 - c. there are full municipal services and no servicing constraints, except where the property is not yet serviced by municipal sanitary sewers, consideration may be given to a private on-site sewage service subject to approval of the

Town's Building Department and no other ARU or garden suite is on the property; and

- d. adequate off-street parking is provided;
- v) a stand-alone ARU, as an ancillary use to a single unit detached or semi-detached dwelling unit shall be permitted, subject to the following criteria:
- a. the ARU is subordinate to the primary dwelling on the lot;
 - b. the ARU can be integrated into its surroundings with negligible visual impact to the streetscape;
 - c. the ARU is compatible in design and scale with the built form on the lot and the surrounding residential neighbourhood in terms of massing, height and visual appearance;
 - d. there are full municipal services and no servicing constraints, except where the property is not yet serviced by municipal sanitary sewers, consideration may be given to a private on-site sewage service subject to approval of the Town's Building Department and there is no other ARU or garden suite on the property; and
 - e. other requirements such as parking, access, stormwater management, tree preservation, landscaping and the provision of amenity areas are adequately addressed;
- vi) garden suites shall be permitted as a temporary use in accordance with the policies of Section 10.15 of this Plan and subject to the following criteria:
- a. a maximum of one garden suite per single unit detached dwelling lot or semi-detached dwelling lot;
 - b. sufficient parking, landscaping and buffering are provided;
 - c. the property owner must reside in the primary dwelling on the lot;
 - d. there is no ARU on the property;
 - e. the property owner has entered into an agreement with the Town with respect to such matters as installation, maintenance, removal and occupancy of the garden suite and has posted suitable financial security with respect to the agreement in accordance with the Planning Act;

- f. a certificate of occupancy will be required prior to occupancy;
- g. there are full municipal services and no servicing constraints, except where the property is not yet serviced by municipal sanitary sewers, consideration may be given to a private on-site sewage service subject to approval of the Town's Building Department; and
- h. the garden suite shall be of a temporary nature and shall not entail any major construction or investment on the part of the owner so that the owner will not experience undue hardship in removing the garden suite or converting it to a permitted use;

Modification #16

Any and all reference to "second units" throughout the document are to be deleted and replaced with "additional residential units" or short form version thereof being "ARU".

The balance of the Official Plan is **approved** as submitted.

Dated at Essex, Ontario this ____ day of _____, _____

REBECCA BELANGER, MCIP, RPP
Manager, Planning Services
County of Essex