



Community Planning and Development Department
Monday, August 22, 2022

Subject: Comprehensive Zoning By-law and Official Plan Amendment No. 15 – Final Recommendations

Recommendation:

BE IT RESOLVED THAT Council receive Report #2022-0200 Comprehensive Zoning By-law and Official Plan Amendment No. 15 – Final Recommendations;

AND THAT Council approve, in principle, Town of Pelham Comprehensive Zoning By-law 4481(2022);

AND THAT Council approve, in principle, By-law 4482(2022) Official Plan Amendment No. 15:

AND THAT Council waive Section 34(10.0.0.1) of the Planning Act, which prohibits applications for Zoning By-law Amendments and Minor Variance applications for a two-year period after the Comprehensive Zoning By-law is passed, for all lands Zoned Residential Development (RD) in Comprehensive Zoning By-law 4481(2022).

Executive Summary

The purpose of this report is to provide Council and the public with final comments, a review of final changes to the proposed Town of Pelham Comprehensive Zoning By-law 4481(2022) and Official Plan Amendment No. 15 and to address the public correspondence received at Council at its July 25, 2022 meeting with respect Report 2022-0154.

Analysis:

Staff have taken into consideration the comments and feedback received at Council on July 25, 2022 and have made minor revisions to the draft by-law that was presented including:

- Removing the regulations for Backyard Chickens; this will be addressed through a standalone By-law that will come to Council in the fall;
- Clarifying the Second Dwelling Unit regulations for properties within the Greenbelt Plan Area and Greenbelt Natural Heritage System to ensure compliance with the Greenbelt Plan;
- Updating the special exception section to capture recently approved plans of subdivision and other recently approved zoning amendments where no appeals were received; and
- Minor updates to Schedule C to ensure recently approved plans of subdivision and zoning amendments were captured appropriately.

No changes have been made to Official Plan Amendment No. 15.

Additional Public Comments – July 25, 2022

Staff have had the opportunity to review the comments that were submitted by members of the public and offer the following comments:

Diane Stevens

- Provided input on Section 3.15 Keeping of Chickens, specifically with respect to:
 - Are chickens permitted to free roam?
 - Does the by-law apply to other fowl such as ducks and turkeys?
 - Does the by-law allow for culling in the backyard?
 - Are there provisions if a chicken escapes and is attacked by another domestic animal (i.e. a dog)?

Ms. Stevens has provided additional comments to Council for the August 22, 2022 meeting, with a number of additional requests of Council with respect to the keeping of chickens, asking for specific regulations and requirements be adopted t by-law.

Staff have reviewed the proposed regulations with By-law Enforcement Staff and the Senior Leadership Team and through those discussions it was determined that the best course of action moving forward would be to remove the regulations for Backyard Chickens from the Zoning By-law and instead, regulations will be proposed through a standalone Licensing By-law, to be presented to Council in the fall, that would license the use and regulate:

- The conditions for the hens including access to water, food and space to ensure conditions that are conducive to healthy animals;
- The location and type of enclosures permitted;

- The disposal of waste;
- The yard setbacks and location of hens, hen coops and hen runs; and
- Maintenance of hen coops and hen runs to ensure they are kept in a clean condition, free of obnoxious odours, substances and vermin.

Staff are confident that the licensing by-law is the more appropriate tool to regulate hens in the urban boundary or on rural or agricultural properties that do not meet the lot area requirements for agricultural uses. A further report on this matter will be presented to Council later in the fall.

Turkstra Mazza (Jennifer Meader)

- Requested that the definition of an "Improved Road" be revised to include any road that is a common elements condominium road
- Noted that Section 3.17.2 "frontage on an improved street" is not consistent with the definition of improved road.

Staff have revised Section 3.17.2 to be consistent with the definition of improved road and have maintained the current definition of "Improved Road".

Tim and Janet Nohara

- Provided comment specific to site specific zoning at 576 Highway 20 and asked that the previous special exception be maintained; and

Staff have reviewed these comments and have ensured that the existing permissions at 576 Highway 20 have been carried forward from the previous zoning by-law.

- Asked for clarification with respect to Second Dwelling Units (SDUs) in the Greenbelt Plan

Mr. and Ms. Nohara have also provided additional comments to Council for the August 22, 2022 meeting with a request to restore the language of the existing SDU By-law in the area affected by the Greenbelt Plan policies and for consistency with Official Plan Amendment 12 which is the Official Plan policy direction with respect to SDU's.

With respect to SDUs in the area subject to Greenbelt Plan policies, Staff offer the following for clarification:

1. Second dwelling units are only permitted within the policy set of "Existing Uses" and existing uses is defined as being legally established as of the date the Greenbelt Plan came into force (December 16, 2004);

2. Second dwelling units are only permitted in areas outside of the Greenbelt Natural Heritage System; and
3. Second dwelling units are permitted within single dwellings permitted in accordance with the Greenbelt Plan or within existing accessory structures.

Official Plan Amendment 12 is also very specific with respect to SDUs in the Specialty Agricultural Area, which is the area covered by the Greenbelt Plan area and states that:

- a) *The second dwelling is located within an existing dwelling, or a new dwelling must have been authorized for use prior to the effective date of the Greenbelt Plan (December 16, 2004).*
- b) *Second dwelling units may also be permitted within existing accessory structures, provided it is located on the same lot as either an existing dwelling, or a new dwelling which was authorized for this use prior to the effective date of the Greenbelt Plan.*
- c) *Permitted second dwelling units in the Protected Countryside designation must be located outside of the Greenbelt Natural Heritage System.*

The SDU regulations in the new Zoning By-law have been created to comply with Greenbelt Plan policies and Official Plan Amendment 12. The Zoning By-law and Official Plan must conform to the policies of all Provincial, Regional and Town Plans or they risk being appealed. While it was never the intent of the previous SDU By-law to be vague or ambiguous to the policies of the Greenbelt Plan area, it is clear based on the Noharas' comments that there was a lack of clarity in the previous by-law.

The new Zoning By-law ensures the regulations are very clear on when and where a SDU is permitted and have improved the clarity for SDU regulations in all zones where they are a permitted use. There is no "loss of rights" to residents as Mr. and Ms. Nohara note in their comments to Council as the Greenbelt Plan policies that are in effect are very specific with respect to second dwelling units and only allow them in areas outside of the Greenbelt Natural Heritage System, within a single detached dwelling and within an existing accessory structure (with existing as being constructed prior to December 16, 2004). These are the approved policies that are in effect and Staff need to ensure that the Zoning By-law complies with these policies; these are not new requirements.

Staff have made revisions to the SDU regulations to provide that clarity and remove any ambiguity with regards to how second dwelling units are to be treated within

the Greenbelt Plan area and to use consistent terminology with Greenbelt Plan in an effort to minimize confusion.

Sullivan Mahoney

- Requested R2 zoning on behalf of a client;
- Requested reduced rear yard setback of 3m in the R1 and R2 Zones and reduced parking requirements for single detached or semi-detached dwellings to space per unit; and
- Requested clarification on the front yard setback when there is an attached garage.

Staff have reviewed these comments and offer the following:

The property in question is currently zoned R1 in an area of mixed R1 and R2 Zoning, with the properties fronting on to Lorimer Street being zoned R1. Staff have reviewed the site and the zone requirements in each of the zones and note the only different regulation is minimum lot frontage, which is 15.0m in the R1 and 12.0m in the R2. Staff are satisfied that the R1 requirements should permit enough flexibility for the client to develop the lands for an additional single detached dwelling(s).

Setback requirements have been reduced from the current 1987 By-law and Staff are of the opinion that these setbacks are reasonable and recognize the existing established neighbourhood conditions. The parking requirements in Section 4 were updated to reflect the recently completed parking study and based on discussions at Council.

The front yard setback requirements in the R1 and R2 zone continue to be 3.0m, except 6.0m where there is an attached garage.

Mike Korolyk

- Questioned a number of site specific exceptions in the rural/agricultural area of the Town specific to businesses being operated on rural or agricultural lands.

Staff, through the Zoning By-law review process, reviewed a number of properties and land uses to ensure that the new By-law would be reflective of current situations and uses where appropriate. Consequently, Staff recommended recognizing a number of existing businesses in the rural/agricultural area as they have been in operation for a number of years, do not result in adverse land use impacts and would otherwise be permitted by Provincial, Regional and Town policies as either agricultural-related uses or on-farm diversified uses. These site specific

exceptions were also reviewed with Regional Planning Staff to ensure they comply with Provincial and Regional planning policies and meet the intent of either an agricultural related use or on-farm diversified uses. Staff also understand that Mr. Korolyk has reached out to the Regional Staff to discuss his concerns and confirm this position.

Alternatives:

Council could choose not to approve Town of Pelham Comprehensive Zoning By-law 4481(2022) and/or By-law 4482 (2022) Official Plan Amendment No. 15.

Council could choose to approve Town of Pelham Comprehensive Zoning By-law 4481 (2022) and/or By-law 4482(2022) Official Plan Amendment No. 15 subject to modifications.

Council could choose to waive Section 34(10.0.0.1) of the *Planning Act*, which prohibits applications for Zoning By-law Amendments and Minor Variance applications for a two-year period after the Comprehensive Zoning By-law is passed for all or some lands, or all or some zones within the Town of Pelham.

Strategic Plan Relationship: Build Strong Communities and Cultural Assets

In September 2020, Pelham Town Council met to discuss priorities and updated to the corporate strategic plan. Council re-ranked the strategic priorities in order of the importance and a new Zoning By-law was moved to the number one priority for the Town. The proposed Official Plan amendment and new Comprehensive Zoning By-law is a significant undertaking that will aid in building strong communities through having up-to-date zoning requirements that is reflective of modern development trends that will help facilitate the future development, provide greater certainty to property owners and the development community, and provides for the protection of agricultural resources and natural heritage resources that are important to the community.

Previous Reports:

Reports 2020-0167, 2021-0137, 2022-0054 and 2022-0154

Prepared and Recommended by:

Lindsay Richardson, MCIP, RPP
Policy Planner

Barbara Wiens, MCIP, RPP
Director of Community Planning and Development

Prepared and Submitted by:

David Cribbs, BA, MA, JD, MPA
Chief Administrative Officer