

PUBLIC MEETING**MUNICIPALITY OF HURON EAST****Tuesday, July 16th, 2019 – 7:07 P.M.**

Huron East Municipal Council met in the Council Chambers of the Municipal Office, Seaforth on Tuesday, July 16th, 2019 at 7:07 p.m. All members of Council were in attendance.

Also present for the public meeting were:

- Huron County Planning and Development Department Senior Planner Denise Van Amersfoort
- Ryan Wilson, Jay Wilson, John Wilson, Danielle Wilson, Melilah Wilson and Michelle Wilson attended for the discussion on the Zoning By-Law Amendment Application on Part Lot 9, Concession 1, HRS, Tuckersmith Ward, Part 4 of RP 22R-289, Seaforth Ward
- Bill Embling, Menze Bos, D. Stelzer, Philip Stelzer, Brian and Sally Gilroy, Shirley Wright, Ed Wright, Linda Smart, Andy Smart, Josh McCarthy, Joan Disher, Ivan Disher, Robin Airdrie, Tammy Dowell and Davin Hastings, neighbouring property owners and Ben Lobb, Huron-Bruce MPP, attended the public meeting for the discussion on the Zoning By-Law Amendment Application regarding housekeeping amendments and zoning provisions for cannabis production facilities

CALL TO ORDER

Mayor Bernie MacLellan called the meeting to order at 7:07 p.m.

CONFIRMATION OF THE AGENDA

Moved by John Lowe and seconded by Dianne Diehl:
That the Agenda for the Public Meeting for Zoning Amendment be adopted as circulated. Carried.

Adopt Agenda

DISCLOSURE OF PECUNIARY INTEREST – None declared.

ZONING BY-LAW AMENDMENTS

CAO/Clerk Brad Knight advised the following provisions are contained in Ontario Regulation 545/06, Section 5(11) 5;

- i. If a person or public body would otherwise have an ability to appeal the decision of the Council of the Municipality of Huron East to the Local Planning Appeal Tribunal but the person or public body does not make oral submissions at the public meeting or make written submissions to the Municipality of Huron East before the by-law is passed, the person or public body is not entitled to appeal the decision.
- ii. If a person or public body does not make oral submissions at a public meeting, or make written submissions to the Municipality of Huron East before the by-law is passed, the person or public body may not be added as a party to the hearing of an appeal to the Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

Housekeeping Amendments

CAO/Clerk Brad Knight explained the purpose and intent of the proposed housekeeping amendments that will affect all lands within the Municipality of Huron East. The By-Law proposes to introduce zoning provisions for cannabis production facilities and also clarify the front yard setback for dwellings within urban settlement areas from municipal or county roads. Comments were received from the Huron County Planning and Development Department.

Huron County Planning and Development Department

Senior Planner Denise Van Amersfoort attended before Council to present her report to Council on the proposed housekeeping amendments that will affect all lands within the Municipality of Huron East. Council were advised the proposed housekeeping amendment include the following changes:

1. Updates to Section 2 of the Zoning By-Law to include definitions for “Air Treatment Control”, “Cannabis” and “Cannabis Production Facility”.
2. New provisions in Section 3 to address compatibility between cannabis production facilities and sensitive uses such as residences, community facilities and parks. These provisions require different setbacks depending on whether or not the facility has air treatment control measures in place. A facility with air treatment control would be required to locate a minimum of 150 metres away while a facility with no air treatment control would be required to locate a minimum of 300 metres away.

3. Cannabis Production Facility to be added as a permitted use in the General Agriculture (AG1), Restricted Agriculture (AG2 and Agricultural – Commercial Industrial (AG3) Zones.

Ms. Van Amersfoort advised the need for this amendment was realized following odour complaints from a facility that has established in Vanastra. It was noted that the proposed amendments will not apply to any cannabis production facility that has been legally established prior to the passing of the proposed zoning by-law amendment.

Ms. Van Amersfoort also noted the second housekeeping amendment proposed for the Zoning By-law. She indicated the housekeeping amendment proposed to reduce the building setback from County Roads in urban areas from 10 metres to 6 metres and the proposed change would be consistent with setbacks from Huron East roads in urban areas.

Ms. Van Amersfoort noted that the Huron County Planning Department was advising the proposed changes to the Huron East Zoning By-Law were in conformity with the Huron East Official Plan and consistent with the Provincial Policy Statement and recommended approval of the proposed housekeeping amendments.

Public Comments

Philip Stelzer, Robin Airdrie, Josh McCarthy, Andy Smart and Bill Embling, each spoke to Council expressing concerns with the current cannabis operation located at the former Plant Paradise property. They expressed appreciation for the action taken by Council to address the zoning of cannabis operations going forward, but indicated that the changes would not address the issues currently being experienced by the community. They noted the smell of the cannabis operation throughout the community and the affect it is having on the health and quality of life of residents in the area. They also questioned whether the current facility is meeting regulations as the property is not secured and dumpsters containing clippings are not locked.

Ben Lobb, Huron-Bruce MPP

Ben Lobb, Huron-Bruce MPP, attended before Council and provided comments on cannabis operations noting that the federal regulation of operations similar to the Vanastra operation respects the privacy of the owners/operators of the site and it is a frustrating process for municipalities and residents to deal with. Mr. Lobb advised that he has urged the Federation of Canadian Municipalities to lobby Health Canada for changes in regulations and enforcement. Mr. Lobb concluded his comments by noting cannabis operations are federally regulated and commended Council for their actions to date in an effort to address the issues being encountered.

Part Lot 9, Concession 1, HRS, and Part 4 of RP 22R-2898, Seaforth Ward (John & Michelle Wilson)

CAO/Clerk Brad Knight explained the purpose and intent of the proposed zoning by-law amendment. The Zoning By-Law proposes to change the zoning in the following ways:

- i) to recognize deficient agricultural area as a result of consent C61/18
- ii) to correct mapping on 42909 Huron Road from Natural Environment (NE1), Floodway (FW), and Community Facility (CF) Zones to Residential (R2) and Floodway Special (FW-2) Zones and to permit a home industry (specifically, a landscaping business) in the Special Floodway Zone (FW-2)
- iii) to permit the construction of a garage in the floodway and in the front yard of 71 Gouinlock Street at a distance of 15 metres from the roadway

He advised that comments were received from the following:

- Huron County Planning Department (July 12th, 2019)
- Ausable Bayfield Conservation Authority (July 11th, 2019)
- Ministry of Transportation (July 16th, 2019, copy provided to Council at the meeting)

Huron County Planning and Development Department

Senior Planner Denise Van Amersfoort attended before Council to present her report to Council on the proposed zoning by-law amendment application on Part Lot 9, Concession 1, HRS, Tuckersmith Ward and Part 4 of RP 22R-2898, Seaforth Ward. Ms. Van Amersfoort reviewed the report with the following points being noted:

The By-Law proposes to change the zoning as follows:

- i) To recognize deficient agricultural area as a result of consent C61/18, the agricultural parcel created is 7 hectares (17.3 acres).

- ii) To correct the mapping on 42909 Huron Road from Natural Environment (NE1), Floodway (FW), and Community Facility (CF) Zones to Residential (R2), Floodway and Floodway Special (FW-2) zones to permit a home industry (specifically, a landscaping business) in the Special Floodway Zone (FW-2).
- iii) To permit the construction of a garage in the floodway and in the front yard of 71 Gouinlock Street, at a distance of 15 metres from the roadway. This involves the creation of a special Floodway Zone (FW-3). The portion of the existing street which is directly north of 71 Gouinlock is currently owned by the abutting farm property with which 71 Gouinlock is required to merge as a condition of consent C61/18. A portion of the street will be conveyed to the Municipality.

Ms. Van Amersfoort advised that with the exception of lands designated Agriculture, the subject properties are located within the Inner Flood Plain of Silver Creek. She noted that the property has been in the Wilson's family for several generations and until just several years ago, operated as an agricultural operation with significant livestock and poultry numbers. She advised that in addition to the residence and detached garage, two large barns exist on the property today which are utilized as part of a home industry (landscaping business) which established on the subject property in 2016.

She advised that the home industry, at its limited scale, can be considered as no additional buildings are being proposed, no site alteration is required, and the intensity of the use is limited. She noted that the landscaping business operates largely off-site thus the impacts on neighbours are limited. She advised Council that home industries are typically not permitted within the limits of urban settlement areas but given the agricultural nature of the property, the use is not out of character. In order to address the natural hazard concerns, she recommended the following amendments to recognize the home industry on the subject property:

- The area in which the landscaping business is permitted to operate (FW-2) be limited to the area including the existing barns and graveled yard.
- All storage (equipment, materials, etc.) be required to locate within existing buildings.
- Notwithstanding the above, bulk mulch is permitted to be stored on the existing concrete pad located between the two, existing barns subject to an ABCA permit;
- Storage of fuels, chemicals and fertilizers is such that their release would be prevented during flood events.
- Site Plan Control applies to the home industry.

Ms. Van Amersfoort advised that the second rezoning was a result of the Wilson family's proposal to construct a 32 x 25 foot detached garage in the front yard of 71 Gouinlock Street. She advised that this property was entirely within the Inner Flood Plain of Silver Creek and that development and site alteration is not permitted in the Inner Flood Plain policies of ABCA and the Municipality of Huron East and that staff from the Ausable Bayfield Conservation Authority had provided comments to that effect. Ms. Van Amersfoort made reference to ABCA staff comments contained in a letter dated July 11, 2019 on both aspects of the Wilson application with the following being noted;

1. Minimum Agricultural Parcel Size - The ABCA has no concern with the requested amendment.
2. Correct mapping for 42909 Huron Road - The ABCA does not support re-zoning floodplain areas away from a zone which reflects the hazardous nature of the site. The mapping in the proposed amendment should be revised accordingly.
3. Rezone to permit a Home Industry -The ABCA cannot support a permanent rezoning of the property to permit the business but would support a temporary use by-law which permits the landscape business to continue for a period of time.
4. Rezone to permit a detached garage near 71 Gouinlock Street - The subject property is identified as floodway and ABCA policy does not support additional development in this area. It was noted that notwithstanding the staff position to deny a permit at this location, the applicant had appealed the staff decision and the ABCA Board of Directors approved the application to construct the garage in the location proposed.

Ms. Van Amersfoort noted that the ABCA letter also noted that if Council proceeded with the zoning changes, that ABCA staff had recommended changes to the special FW-3 zoning and proposed the following provisions in the FW-3 zone;

In the area zoned FW-3, existing residential uses are permitted. A detached garage is permitted in the front yard of the existing dwelling provided the building is located a minimum of 15 metres from the Gouinlock Street road allowance, has no habitable space, is for storage only, will not be used for business purposes and is in accordance with the ABCA permit. The right to reconstruct these structures to a similar proportion if destroyed by means other than flooding is recognized.

Any alteration of an existing building must be in accordance with Conservation Authority Regulations, through approval of the Ausable-Bayfield Conservation Authority.

The CAO presented a letter that had been received that day from the Ministry of Transportation which provided comments on the proposed rezoning to allow a home industry. The letter from the MTO indicated a concern with the existing low volume residential/agriculture access not being appropriate for a commercial/industrial highway access required for this type of home industry and that the current access was in close proximity to an existing intersection.

Ms. Van Amersfoort advised that her recommendations were contained in her report but that the MTO comments were not available at the time she wrote her report. She noted that the Huron County Planning Department was recommending the following:

- Council pass a resolution pursuant to Section 34(17) of the *Planning Act* that minor changes were made since the time of the public meeting and that no further notice is required;
- that deficient size of the agricultural parcel resulting from consent C61/18 be approved.
- the mapping be corrected as noted;
- the home industry be approved with the recommended amendments identified by staff; and
- the detached garage on 71 Gouinlock Street be denied.
- that the zoning by-law amendment be separated into two by-laws and further that:
 - 1) the by-law addressing the home industry and deficient agricultural area be approved as amended; and
 - 2) the by-law addressing the establishment of an accessory building in the floodway be denied.

CAO/Clerk Brad Knight noted that the timing of the receipt of comments from the Ministry of Transportation did not allow staff to contact the MTO for clarification and he recommended that both By-Laws for the zoning amendment be deferred until the next regular meeting to allow staff and the applicant to consider comments from the MTO.

Moved by John Lowe and seconded by Dianne Diehl:

That Council of the Municipality of Huron East defer consideration of By-Law 52-2019 and By-Law 54-2019 until the next regular meeting of Council to allow the applicant/staff to review the comments of the Ministry of Transportation. Carried.

Moved by Raymond Chartrand and seconded by Dianne Diehl:

That the Public Meeting for Zoning By-Law Amendments be closed at 8:57 p.m. Carried.

Bernie MacLellan, Mayor

Brad Knight, CAO/Clerk