

Staff Report 2020-0321

Meeting Date: November 17, 2020

Subject: Proposed Zoning By-law Amendment (Temporary Use), Tolias Landscaping & Plowing Inc., 6809 Healey Road, Ward 4

Submitted By: Stephanie McVittie, Acting Manager, Development Review, Planning

RECOMMENDATION

That in accordance with Section 34(17) of the *Planning Act*, no further notice is required to be provided on the proposed Zoning By-law Amendment (Temporary Use);

That the By-law attached as Schedule 'C' to Staff Report 2020-0321 be enacted to amend Comprehensive Zoning By-law 2006-50, as amended, to rezone the lands to various zones in order to permit a contractor's facility with an accessory business office, accessory gasoline pump island and an accessory open storage area and protect environmental features for a period of three (3) years; and

That applications for minor variances for the lands as identified in Schedule 'A' to Staff Report 2020-0321 be permitted prior to the second anniversary of the passing of any implementing Zoning By-law Amendment, pursuant to Section 45(1.4) of the *Planning Act*.

REPORT HIGHLIGHTS

- A Zoning By-law Amendment (Temporary Use) application (RZ 20-02) was submitted by Glen Schnarr and Associates Inc. on behalf of the Tolias Landscaping & Plowing Inc. on January 17, 2020 and deemed 'complete' by staff on February 27, 2020.
- The application was submitted to permit the continued use of the land as a contractor's facility with an accessory business office, accessory gasoline pump island and accessory open storage, for a period of three years.
- The subject lands were previously subject to a Temporary Use Zoning By-law (BL-2017-43) which expired on June 20, 2020 and permitted the same uses.
- A statutory public meeting was held on September 8, 2020 in accordance with the requirements of the *Planning Act*.
- The proposed by-law is consistent with Provincial policies and conform to Provincial, Regional and local planning policy documents.
- Planning staff recommends that Council enact the Temporary Use By-law, attached as Schedule "C" to this report.

DISCUSSION

The purpose of this Report is to recommend that Council enact the proposed Temporary Use By-law to allow the continued use of the property as a contractor's facility for a period of three years.

Subject Lands

The site is known municipally as 6809 Healey Road and is located on the south side of Healey Road, between Innis Lake Road and Centreville Creek Road. Legally, the lands are known as Part Lot 5, Concession 2 (Albion). The subject lands are approximately 2.67 ha (6.62 ac) in size and is currently occupied by an existing detached dwelling, a metal storage building, storage enclosures (concrete precast block-wall), an accessory gasoline pump island and a garbage enclosure. The property also contains an agricultural field towards the rear of the property.

Background

In 2015, the applicant applied for a Zoning By-law Amendment (Temporary Use) application (RZ 15-04) to temporarily permit a contractor's facility with an accessory business office, accessory gasoline pump island and an accessory open storage area. This by-law (BL-2017-43) was passed by Council on June 20, 2017 for a period of three (3) years and expired on June 20, 2020.

Proposed Development

On January 17, 2020, the Town received a Zoning By-law Amendment (Temporary Use) application (RZ 20-02) from Glen Schnarr and Associates Inc. on behalf of the Tolia Landscaping & Plowing Inc. for the subject lands. The application was deemed 'complete' by staff on February 27, 2020.

The property is currently home to Tolia Landscaping & Plowing Inc. The company performs landscaping, plowing and property maintenance services. The business operations consist of employees arriving at the site, parking their vehicles and then leaving in commercial vehicles for the day. At the end of the day/shift, the commercial vehicles are returned to the lot and parked and employees then leave in their personal vehicles.

The summer operations are generally early morning to late day shifts while winter operations are weather dependent and may occasionally operate in off-peak hours. During the summer months there may be up to 13 employees, while during the winter months there are approximately 9 employees. The existing detached dwelling on the subject property is being used as an accessory business office and the metal storage building provides for the storage of vehicles, tools and equipment associated with the contractor's facility. The concrete precast block-wall storage enclosures located towards the westerly edge of the property is used for storage and contains various materials (e.g. topsoil, mulch etc.) in support of the contractor's business. The agricultural field towards the rear of the property will remain as is.

The applicant has also submitted a related Site Plan (SPA 19-08) application to recognize the existing use of the site. Through that Site Plan, the applicant has worked with the Town to address comments; however, it has not yet received approval as the Temporary Use By-law has expired. As a result of the Site Plan process, the applicant will be completing the following site works:

- Construction of a barrier-free ramp at the office and relocation of an accessible parking space to address accessibility comments;
- Planting of landscape screening features along the east and west property lines; and,
- Relocation of the landscape waste storage area (i.e. shifting it further east away from the adjacent property line) and enhancing the waste enclosure area.

The purpose of the application is to rezone the lands to temporarily permit a contractor's facility with an accessory business office, accessory gasoline pump island and an accessory open storage area for a period of three (3) years.

Planning Review

Documents that have been considered by the Town in its review of the proposed application includes the Provincial Policy Statement, 2020, A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, Region of Peel Official Plan, the Town of Caledon Official Plan and the Town of Caledon Comprehensive Zoning By-law 2006-50, as amended. Supporting technical studies and reports as well as comments and recommendations provided by internal departments, external review agencies and the public also informed the review of this application.

Provincial Policy Statement, 2020 (PPS, 2020)

The PPS, 2020 provides policy direction on matters of provincial interest related to land use planning and development. The PPS, 2020 contains policy direction on the efficient use of land to support sustainable, strong, livable, healthy and resilient communities while protecting the environment, public health and safety and facilitating growth. The PPS, 2020 (Section 1.1) speaks to creating healthy, livable and safe communities being achieved by avoiding development and land use patterns which may cause environmental or public health and safety concerns, avoiding land use patterns that prevent the efficient expansion of settlement areas should also be avoided and providing for healthy, integrated and viable rural areas should be supported by providing opportunities for economic activities in prime agricultural areas. Section 2.3 of the PPS, 2020 speaks to permitted uses in prime agricultural areas, which includes agricultural uses, agricultural-related uses and on-farm diversified uses. Proposed agriculture-related uses and on-farm diversified uses shall be compatible with, and shall not hinder, surrounding agricultural operations. To support the application, the applicant provided a Minimum Distance Separation I calculation for the introduction of the proposed Type 'A' land use on the subject property and the contractor's facility continues to exceed the minimum required setbacks from existing livestock facilities and manure storage.

The proposed application is consistent with the PPS, 2020 as the temporary use will not hinder the efficient development and land use patterns within the municipality and is generally compatible with the existing uses in the surrounding area. The applicant has demonstrated through supporting studies that the proposed application will not have an adverse effect on the environment or cause any public health or safety concerns. While the existing and proposed use is not considered any of these land uses, it is an existing operation which is limited in scope. The operation has been established in a non-permanent manner utilizing the existing dwelling, land and implementing accessory buildings and structures which are temporary in nature. In addition, staff recognize the location of the site within the GTA West Study Area and the recommendations from MTO that would limit development to a temporary nature for three years. It is staff's opinion that the proposed by-law is consistent with the Provincial Policy Statement, 2020.

Places to Grow Growth Plan for the Greater Golden Horseshoe (Growth Plan)

The Growth Plan, in conforming to the PPS, 2020, contains similar, although refined, policy direction to the PPS, 2020. The Growth Plan is intended to be a framework for implementing the Province's vision for supporting strong prosperous communities through managing growth in the region through 2041. While the Growth Plan directs growth to settlement areas, it also contains policies which permit other land uses provided that they are compatible with the rural landscape and surrounding local land uses, will be sustained by rural service levels and will not adversely affect the protection of agricultural uses and other resource-based uses such as mineral aggregate operations (Section 2.2.9.3). Section 4.2 of the Growth Plan contains policies which protect the agricultural land base and areas. The Growth Plan also speaks to protecting transportation and infrastructure corridors (Section 3.2.5.1). For the same reasons as explained in the PPS, 2020 discussion, the proposed by-law conforms to and is consistent with the Growth Plan.

Region of Peel Official Plan

The Region of Peel Official Plan designates the subject property as Rural System with identification of the Conceptual Strategic Infrastructure Study Area (under appeal) on Schedule "D" Regional Structure and Prime Agricultural Area on Schedule "B" Prime Agricultural Area. The Region's Official Plan also provides for specific policies directing area municipalities to include more detailed objectives and policies in the local municipal official plans. Section 3.2 contains policies which speak to protecting the Prime Agricultural Area and directing the Town to designate and protect the Area in the Town's Official Plan. Section 3.2.2.11 directs the Town only to permit a non-residential use in the Prime Agricultural Area, subject to an area municipal official plan amendment and provided that:

- a) there are no reasonable alternative locations which avoid the Prime Agricultural Area;
- b) there are no reasonable alternative locations in the Prime Agricultural Area with lower priority agricultural lands;
- c) there is a demonstrated need for the use, which has been justified in the context of applicable growth management policies; and,
- d) impacts from any new non-residential use on surrounding agricultural operations and lands are minimal or will be satisfactorily mitigated.

The Region has provided comments and while the Region would generally not encourage landscaping and plowing uses to be located in this area, Regional staff also recognize that the land is located within the GTA West Corridor and that the by-law is temporary in nature. The Region has indicated that there are no concerns with this by-law.

Town of Caledon Official Plan

In the Town of Caledon Official Plan, the subject lands are designated Prime Agricultural Area and Environmental Policy Area in accordance with Schedule “A” Town of Caledon Land Use Plan. The permitted uses within the Prime Agricultural Area include agricultural uses, high impact agricultural uses, agricultural-related commercial and agricultural-related industrial uses among other uses listed in Section 5.1.1.4. A contractor’s facility is not permitted in the Prime Agricultural Area.

In accordance with Section 6.2.13 of the Town’s Official Plan, prior to the passing of a Temporary Use By-law, Council shall be satisfied that the proposed temporary use meets the specific conditions including: that the use is compatible with the neighbouring land uses activities, that adequate parking is provided, that no adverse impacts on traffic will be created, that the use does not facilitate the construction of a permanent building or structure, that the use is not permanent or difficult to terminate and that adverse environmental impacts are avoided, minimized or mitigated. Each one of these items is discussed below in further detail:

a) That it is compatible with neighbouring land use activities;

The subject property is currently surrounded by predominantly agricultural and rural residential uses including residential dwellings, vacant/open space, and the nursery operation immediately to the west/southwest. The nature of the business, and the operation of the business is compatible with the surrounding uses considering the low intensity nature of the subject site operation with limited interaction with external users during the day (and night), and limited employee interaction as they are away from the site for the duration of the day. Technical investigation has shown no adverse noise, or other engineering considerations or impacts resulting from the existing operation which have not been mitigated. Further, the existing site layout and site programming which includes covered outdoor storage areas, gravel parking and loading areas, detached dwelling and ancillary structure is visually compatible as it is comparable to many properties and their agricultural operations in the surrounding area context. The current use of the subject property in operating as a contractor’s yard is compatible with the neighbouring land uses.

b) That adequate parking can be provided;

Town staff have reviewed the parking requirements for the development proposal and have determined that the proposed parking complies with the provisions of the Zoning By-law 2006-50, as amended. Adequate parking is available on site for the general public and employees of the contractor’s facility.

c) That an adverse impact on traffic will not be created;

The number of vehicles entering/exiting the site per hour is approximately 20 vehicles and is limited to once in the morning and one in the evening when fleet vehicles leave and return.

Other vehicles visiting the site may include a garbage truck and fuel truck (weekly basis) a cleaning service (twice a week) and a landscape material delivery (once a year). Transportation have been circulated the application for review and have no concerns/objections with the development proposal.

d) That the construction of a permanent building or structure is not encouraged;

There are no permanent buildings or structures proposed as part of this application. The existing use is utilizing existing buildings and structures on the property, including the existing detached dwelling, the metal storage building, concrete pre-cast lock-wall enclosures. The minor works proposed to meet accessibility standards do not deter from the use of the site being returned to agricultural in nature.

e) That the use cannot become permanent and difficult to terminate;

The applicant has submitted a Temporary Use By-law application to temporarily permit a contractor's facility with an accessory business office, accessory gasoline pump island and an accessory open storage area for a period of three (3) years. The business is primarily focused on providing landscaping property and maintenance services to clients during the summer months and plowing services in the winter. As indicated above, all the existing buildings and structures can be repurposed for agricultural uses upon expiry of the temporary use. The property is also located within the GTA West Corridor and the Town is also in the midst of completing an Official Plan review which will determine the ultimate use for the land.

f) That adverse environmental impacts will be avoided, minimized or mitigated.

Through the application, the applicant has adequately demonstrated that impacts will be avoided, minimized and mitigated. The property is partially within Toronto and Region Conservation Authority (TRCA) regulation limit, as a small eastern portion of the site is traversed by a valley corridor. All works proposed with the application are appropriately setback outside of the TRCA's regulation limit and are zoned in an appropriate category. The TRCA has reviewed the application and has no further concerns. Additionally, the applicant has submitted supporting documentation to address noise, stormwater management, lighting and material storage on the property.

While the existing and proposed use is not considered any of these land uses, it is an existing operation which is limited in scope. The operation has been established in a non-permanent manner utilizing the existing dwelling, land and implementing accessory buildings and structures which are temporary in nature. In addition, staff recognize the location of the site within the GTA West Study Area and the recommendations from MTO that would limit development to a temporary nature for three years. Based on the above and the temporary nature of the proposal, staff are of the opinion that the proposed by-law is in conformity with the Town of Caledon Official Plan.

Comprehensive Zoning By-law 2006-50, as amended

The subject lands are currently zoned Small Agricultural Holdings (A3) in Zoning By-law 2006-50, as amended.

The proposed Temporary Use By-law is in keeping with the previously approved by-law (BL-2017-43) which was passed by Council on June 20, 2017 for a period of three (3) years and expired on June 20, 2020. The applicant is proposing a temporary use by-law to rezone the lands for a period of 3 years to:

- Agricultural Small Holdings (A3), recognizing the agricultural land at the rear of the property
- Environmental Policy Area 1 Zone – Temporary 11 (EPA1-T11), with permitted uses restricted to an existing driveway only
- Agricultural Small Holdings - Temporary 12 (A3-T12), to permit a contractor's facility with an accessory business office, accessory gasoline pump island and accessory open storage area, with site specific standards to recognize the existing use of the site but also ensure buffers and provide mitigation measures to neighbours (i.e. lighting, parking of vehicles, open storage location, etc.)
- Environmental Policy Area 1 Zone – Temporary 13 (EPA1-T13), to permit environmental management related uses

See attached Schedule 'C' Temporary Use By-law.

Consultation

Notice of Application

In accordance with the *Planning Act*, a Notice of Application was mailed to all landowners within 120 m (393.7 ft) of the subject property. In addition, a notice sign has been posted on the subject lands and this Notice was posted on the Town's website and advertised in the Caledon Citizen and Caledon Enterprise newspapers on March 5, 2020.

Agency and Department Review

The proposed by-law was circulated to external agencies and internal departments for review and comment. Comments are attached to this report as Appendix 'D' – Agency and Department Comment Sheet. No objections to the proposed by-law were received.

Public Meeting

In accordance with the *Planning Act*, the Notice of Public Meeting was mailed to all landowners within 120 m (393.7 ft) of the subject property and was advertised in the Caledon Citizen and Caledon Enterprise newspapers on August 13, 2020.

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A statutory Public Meeting was held on September 8, 2020 in accordance with the requirements of the *Planning Act*. The following questions were raised at the Public Meeting and/or received during the processing of this proposed by-law:

Question/Comment	Response
Are larger trucks and trailers being permitted on the property?	The intention is not to operate a transportation depot on site. A transportation depot is not a permitted use. The location and number of vehicles allowed are generally the same as the current on-site operation.
Are repairs being done to the vehicles on the property?	No vehicles repairs are done on site (only light maintenance is performed) as the vehicles are all leased equipment.
What is the nature/scale of the operation?	The business operations consist of employees arriving at the site, parking their vehicles and then leaving in commercial vehicles for the day. At the end of the day/shift, the commercial vehicles are returned to the lot and parked and employees then leave in their personal vehicles. The summer operations are generally early morning to late day shifts while winter operations are weather dependent and may occasionally operate in off-peak hours. During the summer months they may be up to 13 employees, while during the winter there are approximately 9 employees.
Are there noise concerns with the application?	A noise study was completed and found to be satisfactory to Town staff. The study identified that the loading operations may be of concern and as a mitigation measure recommended limiting this activity to a specific location on the site. This has been reflected in the by-law through standards and setbacks.
Clarification was sought regarding the storage and usage of salt on the lands.	The salt is stored on a concrete floor in a covered storage area. The salt is pushed towards the rear of the storage area for maximum protection which allows for loading from within the storage area.
Clarification was sought regarding the Temporary Use By-law process and whether there are is a limit on how many times an application can be renewed.	There are no limits to the number of times an applicant may seek extensions to Temporary Use By-laws; however, each extension can be for a period of no more than 3 years.

Minor Variances

Section 45 (1.3) of the *Planning Act* prohibits any owner or applicant to apply for a Minor Variance application within two years of the approval of a Zoning By-law Amendment. Normally, variances would proceed to the Committee of Adjustment, however prior to the

expiration of that two-year period, any request for a variance would need to appear before Council to allow a land owner to make an application to the Committee. This step may cause significant delay in processing of related Site Plan and Building Permit applications if a Minor Variance is required.

Section 45 (1.4) of the *Planning Act* allows Council to declare by resolution that such application is permitted within the two years. Staff is therefore recommending that Council, pursuant to the above *Planning Act* reference, permit Minor Variance applications to be applied as a precautionary measure to ensure development can proceed in a timely manner. Any variance application submitted would still require consideration and approval by the Committee of Adjustment.

No Further Notice (Section 34(17) of the *Planning Act*)

Since the Public Meeting, through the processing of the Zoning By-law Amendment (Temporary Use), minor refinements to both the draft by-law have occurred. The initial draft by-law identified a small area at the rear of the property being zoned Environmental Policy Area 1 Zone (EPA1); however, it did not include the temporary use provision, being Environmental Policy Area 1 Zone – Temporary 13 (EPA1-T13). The uses proposed to be permitted are the same as those permitted within the EPA1 zone; however, as the by-law is a Temporary Use By-law, the suffix is required. The Town has since worked with the applicant to resolve this discrepancy. Staff is of the opinion that the clarifications are minor and maintain the intent of the application and therefore request that Council confirm that no further notice or a Public Meeting is required as per Section 34(17) of the *Planning Act*.

FINANCIAL IMPLICATIONS

For property tax purpose, this property (6809 Healey Road) is currently assessed as mostly Commercial (\$860,000 CVA). The Town's share of taxes levied, based on the current value assessment is approximately \$6,200. As at October 29, 2020 the property tax account is determined to be current.

If the proposed development were to proceed as planned, (a landscape contractor's facility) the property's taxable assessment value would change to reflect the developments that would have taken place.

The applicable Development Charges, as supported by current By-laws will be:

- Town of Caledon: \$57.78 per m² of added floor space.
- Region of Peel: \$232.86 per m² of added floor space.
- Education: \$9.69 per m² of added floor space.

The Development Charges comments and estimates above are as at October 29, 2020 and are based upon information provided to the Town by the applicant, current By-laws in effect and current rates, which are indexed twice a year. Development Charges are calculated and payable at the time of building permit issuance. Development Charge By-laws and rates are

subject to change. Further, proposed developments may change from the current proposal to the building permit stage. Any estimates provided will be updated based on the Development Charges By-law and rates in effect at the time of building permit, and actual information related to the construction as provided in the building permit application.

COUNCIL WORK PLAN

Connected Community: Discourage non-agricultural storage on rural land; preserve natural areas

ATTACHMENTS

Schedule A: Location Map

Schedule B: Concept Plan

Schedule C: Temporary Use By-law

Schedule D: Agency and Department Comment Sheet